SUPREME COURT, U.S.
FILED
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E. ROBERT SEAVER, CLERK

APPENDIX

Vol. I (pp. 1-418)

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,
Petitioner,

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

No. 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioners.

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT
ON APPEALS FOR THE FOURTH CIRCUIT

PETITIONS FOR WRITS OF CERTIORARI FILED APRIL 22, 1971
AND MAY 20, 1971
CERTIORARI GRANTED OCTOBER 12, 1971

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INDEX TO APPENDIX

	Page
Certified copy of docket entries	1
Complaint	26
Plaintiff's notice of motion and motion for a preliminary injunction	39
Plaintiff's notice of motion and motion for leave to join an additional party defendant and to file an amended complaint	41
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	43
Answer of all defendants with the exception of Halifax County Board of Education	47

	Page
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	51
Answer of Halifax County Board of Education	56
Notice of hearing by Judge Butler	60
Order that Clerk file amended complaint and U. S. Marshal serve copies upon defendants	61
Amended complaint	62
Answer to amended complaint by all defendants except Halifax County Board of Education	69
Answer of defendant Scotland Neck Board of Education	72
Transcript of hearing on August 21-22, 1969	76
Deposition of Ferd Harrison	96
Deposition of C. M. Moore, Jr.	117
Deposition of Craig Phillips	153
Deposition of W. Henry Overman	218
Deposition of Henry Harrison	365
Deposition of Frank P. Shields	419
Deposition of Aubrey Powell	460
Deposition of F. Boyd Bailey	493
Affidavit of J. L. Pierce	580
Plaintiff's Exhibit #1	585
Plaintiff's Exhibit #2	587
Plaintiff's Exhibit #3	679
Plaintiff's Exhibit #5	681
Plaintiff's Exhibit #7	683
Plaintiff's Exhibit #8	684
Plaintiff's Exhibit #9	686
Plaintiff's Exhibit #10	687
Plaintiff's Exhibit #11	688
Plaintiff's Exhibit #13	727
Plaintiff's Exhibit #14	746
Plaintiff's Exhibit #17	759
Plaintiff's Exhibit #18	761
Order dismissing certain defendants	788
Memorandum opinion of Judge Larkins	790
Amended answer of the Scotland Neck City Board of Education	793

Page

Motion of defendant Scotland Neck City Board of Education that order be entered modifying temporary injunction ____ 798

Order allowing Scotland Neck City Board of Education to use private donations for expenses and fees incurred ____ 800

Motion of Robert Morgan, Attorney General of North Carolina, to intervene in this action in behalf of the state of North Carolina, as party defendant ____ 801

Order allowing intervention of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina ____ 804

Answer of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina ____ 806

Order allowing motion of Halifax County to be dismissed as to the question of constitutionality of the Act creating Scotland Neck Unit ____ 812

Answer to plaintiff's interrogatories by defendant Halifax County Board of Education ____ 814

Memorandum opinion and order of Judge Larkins ____ 923

Order amending order of 11/24/69 ____ 925

Motion for leave to intervene by additional plaintiffs Pattie Black Cotton and Edward M. Francis, public school teachers of Halifax County, and others ____ 926

Transcript of hearing on December 17, 1969 ____ 931

Memorandum opinion and order allowing motion to intervene ____ 994

Complaint in intervention ____ 1000

Answer of defendant Scotland Neck City Board of Education to the complaint in intervention ____ 1029

Answer to complaint in intervention by board of county commissioners of Halifax County ____ 1046

Answer of defendant Halifax County Board of Education to the complaint in intervention ____ 1051

Order that motion of defendants that effective date of implementation be delayed until on or about 6/1/70 is allowed; "Proposed Interim Plan" of defendant Halifax County Board of Education be implemented by board no later than 6/1/70 ____ 1058

Opinion and order that further implementation of Chapter 31 of the 1969 Session Laws of North Carolina is permanently enjoined ____ 1062

Page

Judgment that Chapter 31 of the 1969 Session Laws of North Carolina creating Scotland Neck Administrative Unit is declared to be unconstitutional and null and void. Defendants, their respective officers, agents, etc., are permanently enjoined from all further proceedings pursuant to said statute ____ 1085

Amended order, amending order of district court dated 5/18/70 ____ 1086

Notice of appeal by Scotland Neck City Board of Education ____ 1087

Notice of appeal to the United States Court of Appeals for the Fourth Circuit by Robert Morgan, Attorney General of North Carolina, North Carolina State Board of Education, and Dr. A. Craig Phillips, State Superintendent of Public Instruction ____ 1088

Motion of defendant Halifax County Board of Education for further amendment to "Proposed Interim Plan" ____ 1089

Plaintiff's response to defendant's motion to amend interim desegregation plan approved May 19, 1970 ____ 1092

Defendant Scotland Neck City Board of Education's Answer to motion of Halifax County Board of Education ____ 1094

Plaintiffs' in intervention opposition to defendant's motion to amend interim desegregation plan approved May 19, 1970 ____ 1096

Order denying motion of defendants to amend the order of May 19, 1970, with respect to the operation of Scotland Neck School and Brawley School (Judge Larkins) ____ 1098

Affidavit of W. Henry Overman dated September 15, 1970 (Enrollment Statistics) ____ 1100

Affidavit of W. Henry Overman dated December 2, 1970 (Enrollment Statistics) ____ 1102

Opinion and judgment of the United States Court of Appeals for the Fourth Circuit dated March 23, 1971 ____ 1104

Opinion of the United States Court of Appeals for the Fourth Circuit in *Wright* v. *Council of the City of Emporia*, March 23, 1971 ____ 1119

Order staying the mandate dated April 21, 1971 ____ 1151

Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-130 ____ 1152

Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-187 ____ 1152

Affidavit of W. Henry Overman dated October 14, 1971 (Enrollment Statistics) ____ 1153

Halifax County map indicating the school districts and different schools ____ 1155

CIVIL DOCKET

UNITED STATES DISTRICT COURT

DATE	PROCEEDINGS
6/16/69	Fil. & ent. COMPLAINT—Alleged violation of Civil Rights—Plff. prays that Court find provisions of Chapt. 31, '69 Sessions Laws in violation of Equal Protection Clause of 14th Amendment & enter order enjoining defts., etc. from giving any force or effect to provisions of Chapt. 31, & from doing anything or act which may be called for in the provisions of Chapt. 31.—Plff. further prays court enter order enjoining deft. Halifax County Bd. of Ed., etc., from failing or refusing to afford equal educational opportunities to all students without regard to race, & requiring the Board to take prompt steps toward assigning pupils to schools without regard to their race on basis of unitary geographic attendance zones, etc.—Plff. further prays that defts. be ordered to see such technical assistance as may be necessary from Office of Ed. of Dept. of H.E.W. for preparation & submission of plan to accomplish this result at earliest practicable date. 7 cc to U.S. Marshal for service (Exhibit "A" Attached)
	Issued Summons with Complaint to U.S. Marshal —orig. & 7 cc to U.S. Marshal
7/ 1/69	Fil. & ent. U.S. Marshal's Return on Summons w/complaint: On 6//18/69 at Scotland Neck: Service made on Frank P. Shields, J. W. Andrews & J. I. Walston. Endeavor made on this date to serve F. G. Shearin & Ferd L. Harrison without success. On 6/19/69 at Scotland Neck service made on Ferd L. Harrison as Mayor and

DATE	PROCEEDINGS
	as Chairman of Bd. of Commrs. of Town of Scotland Neck, N.C. On 6/19/69 at Littleton, N.C., service made on C. M. Moore, Jr., Chairman, Halifax Co. Bd. of Ed. On 6/26/69 at Scotland Neck, N.C., service made on F. G. Shearin.
7/ 7/69	Fil. w/Judge Larkins—STIPULATION & ORDER extending time within which deft. Halifax Co. Bd. of Ed. may file answer or otherwise plead to & including 8/8/69. (LARKINS, J:) (Civ. O.B.#VI,P.1916) 1 cc to U.S. Atty.
	Fil. w/Judge Larkins—MOTION and ORDER extending time within which defts. Harrison, as Mayor of Town of Scotland Neck; Andrews, Shearin, Shields & Walston, as members of Bd. of Commrs. of Town of Scotland Neck; and Town of Scotland Neck, a public body corporate, may have to file answer or otherwise to and including 8/7/69. plead (LARKINS, J.) (Civ.O.B.#VI,P.1917) 1 cc to U.S. Atty. Cy. to Mr. Josey by Judge.
7/10/69	Fil. & ent. PLAINTIFF's NOTICE OF DEPOSITION of W. Henry Overman, Benjamin F. Currin, Fred L. Owen & Paul H. Johnston on 7/14/69 at 9:30 a.m., in offices of Halifax Co. Bd. of Ed., Halifax, N.C., by plff. Also Depositions of Aubrey Powell, Franklin Bailey & Harrison, Ferd L., to be taken on 7/15/69 at 9:30 a.m., at City Hall, Scotland Neck, N.C., by plff., along with deposition of Frank P. Shields: w/Cert. of Service
7/14/69	Fil. & ent. PLAINTIFF'S NOTICE OF DEPOSITION of Dr. Craig Phillips on 7/16/69 at 3:00 p.m. in offices of State Superintendent of Public Instruction, Raleigh, N.C., of Claude K. Josey on 7/15/69 at 2:00 p.m. at the City Hall, Scotland Neck, N.C.—by plff. w/Cert. of Service

DATE	PROCEEDINGS
7/17/69	Fil. & ent. PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR A PRELIMINARY INJUNCTION—asking to be heard at time and place to be set by the Court. (Cy. to J. Larkins)
	Fil. & ent. Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES (Clk.'s cy. to Judge)
	Fil. & ent. PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR LEAVE TO JOIN AN ADDITIONAL PARTY DEFENDANT AND TO FILE AN AMENDED COMPLAINT—Notice that motion is to be heard 8/13/69 at 10:00 a.m., in courtroom of U.S. Dist. Ct., Fed. Bldg., Trenton, N.C., or as soon thereafter as can be heard. (Clk.'s cy. to J. Larkins)
	Fil. & ent. Return on Civ. Subpoena: Executed on 7/13/69 at Scotland Neck, N.C., by service on Henry Lee Harrison. Served by Dept. of Justice Atty. Richard Bourne
7/23/69	Fil. & ent. U.S. Marshal's Return on Deposition Subpoena: Executed on 7/15/69 at Raleigh, N.C., upon Dr. Craig Phillips
	Fil. & ent. Deposition Subpoena Return by U.S. Marshal: Executed on 7/11/69 at Scotland Neck, N.C., upon Frank P. Shields.
8/14/69	Fil. w/Judge Butler—NOTICE OF HEARING in U.S. Dist. Ct.Rm., in Post Office Bldg., Raleigh, N.C., on Thursday, 8/21/69 at 10:00 A.M. before Butler and Larkins, U.S. Dist. Judges. (Case consolidated with Alvin Turner, et al vs. The Warrenton City Bd. of Ed., et al)—Counsel directed to submit a copy of brief or memorandum in support of their respective contentions to each of the dist. judges on or before noon on Wednesday, 8/20/69. (BUTLER, J.) (Civ. O.B.#VI,P.1929) Copy to attys. of record from J. Butler's Office. (Orig. to J. Larkins for file)

DATE	PROCEEDINGS
8/20/69	Fil. & ent. ANSWER TO AMENDED COMPLAINT by all defts. w/exception of Halifax County Bd. of Ed. & Scotland Neck City Bd. of Ed.—praying that relief as prayed for by the plff. be denied and that plff. be taxed with costs & disbursements of this action & further pray that this action be dismissed as against them as set forth in its motion heretofore made. Cert. of Ser. attached thereto. (Orig. held in Raleigh office to be placed in file on 8/21/69 at hearing.)
	Fil. & ent. ANSWER TO AMENDED COMPLAINT by Scotland Neck City Board of Education praying that Court give additional time for them to file answer to & including 9/5/69; that trial of this action on its merits not be scheduled until this deft. can, through discovery procedures, prepare for trial; & that in any event this action be dismissed and plff. denied each & every prayer in amended complaint & plff. be taxed with costs & disbursements. Cert. of Service attached thereto. (Orig. held in Raleigh office to be placed in file on 8/21/69 at hearing.)
	Received in this office four copies of Brief of plaintiff for Clerk's file and for the use of the Judges at hearing.
	Fil. & ent. MOTION TO INTERVENE by Maryetta Richardson, in behalf of herself, & of her infant children, Montenia, Timmie, Charlotte & Jimmy, et al. Exhibit A, Pleading in Intervention, attached thereto
	Fil. & ent. CERTIFICATE OF SERVICE as to Motion to Intervene & Exhibit A.
8/22/69	Fil. & Ent. AFFIDAVIT of WILLIAM ROBERT RICHARDSON; 1 copy.

DATE	PROCEEDINGS
8/22/69	Fil. & ent. U. S. Marshal's Return on Civil Subpoenas: Executed on 8/18/69 at Raleigh, N.C., by service on Dr. A. Craig Phillips. Service upon Macon L. Moore on 8/16/69 at Littleton, N.C. Service upon Frank P. Shields on 8/16/69 at Scotland Neck, N.C. Service upon Franklin B. Bailey on 8/19/69 at Scotland Neck, N.C. Service upon Henry L. Harrison on 8/16/69 at Scotland Neck, N.C. Service on C. B. Martin 8/19/69 at Tarboro, N.C. w/check for $27.00. Service on J. W. Talley 8/19/69 at Roanoke Rapids, N.C., w/check for $27.60. Service on Hugh D. Randall 8/20/69 at Supt.'s Office, Hendersonville, N.C. w/check of $45.10. by J. Paul Teal, Jr., U.S. Marshal, W.D.N.C., by Thomas J. Greene, DUSM. Service on Vernon L. Dusenbury 8/20/69 at High Sch. Bldg., Tryon, N.C., w/check for $45.00 by J. Paul Teal, Jr., U.S.M., W.D.N.C., by Thomas J. Greene, DUSM. Endeavor made to serve Robert Clary at Roanoke Rapids, N.C., on 8/19/69 & learned that subject was out of State & would be out for a week. Atty. Josey's office (Scotland Neck) advised 8/20/69.
	Fil. & ent. U.S. Marshal's Return on Civ. Subpoena to Produce Document: W. Henry Overman served on 8/16/69 at Roanoke Rapids, N.C.
	Fil. & ent. U.S. Marshal's Return on Summons w/Amended Complaint: Following served on 8/16/69: Macon L. Moore, Chairman, Halifax Co. Bd. of Ed., at Littleton, N.C. J. A. Andrews, F. G. Shearin & D. E. Josey, Jr., Bd. Members of Bd. of Commr's. of Town of Scotland Neck, at Scotland Neck, N.C. Ferd L. Harrison served as Mayor & as Chairman of Bd. of Commrs. Town of Scotland Neck, N.C., at Scotland Neck, N.C. Frank P. Shields, Chairman Scotland Neck City Bd. of Ed. at Scotland Neck

DATE	PROCEEDINGS
7/23/69	Fil. & ent. U.S. Marshal's Return on Deposition Subpoena: Executed 7/11/69 at Scotland Neck, N.C., upon Ferd Harrison, Mayor of Scotland Neck.
	Fil. & ent. DEPOSITION SUBPOENA Return by U.S. Marshal: Executed on 7/11/69 at Scotland Neck, N.C., upon Franklin Bailey.
	Fil. & ent. U.S. Marshall's Return on Deposition Subpoena: Executed on 7/11/69 at Scotland Neck, N.C., upon Aubrey Powell.
	Fil. & ent. U.S. Marshall's Return on Deposition Subpoena: Executed on 7/11/69 at Littleton, N.C., upon Paul H. Johnson.
	Fil. & ent. U.S. Marshal's Return on Deposition Subpoena: Executed on 7/11/69 at Littleton, N.C., upon Fred L. Owen.
	Fil. & ent. U.S. Marshal's Return on Deposition Subpoena: Executed on 7/11/69 at Halifax, N.C., upon Benjamin Currin. Return on 7/11/69 at Halifax, N.C. upon W. Henry Overman by delivering coy to Benjamin Currin Asst. Supt. of Schools.
7/31/69	Fil. & ent. PLAINTIFF'S NOTICE OF DEPOSITION of Dr. A. Craig Phillips, in office of State Superintendent of Public Instruction, Ed. Bldg., Raleigh, N.C., at 3:00 p.m. on Monday, 8/4/69 as well as depositions of Franklin Bailey & C. Macon Moore at office of Home Building & Loan Asso., East 10th St., Scotland Neck, N.C., at 9:30 a.m. on 8/5/69. w/Cert. of Ser.
8/ 4/69	Fil. & ent. RESPONSE TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION, MOTION FOR LEAVE TO JOIN AN ADDITIONAL PARTY DEFENDANT, AND MOTION TO FILE AN AMENDED COMPLAINT by each deft. with exception of Halifax County Board of Education. w/Cert. of Service

DATE	PROCEEDINGS
	Fil. & ent. ANSWER of all defts. w/exception of Halifax Co. Bd. of Ed. praying that action be dismissed—that if action is not dismissed as against these answering defts. for reasons mentioned in 1 thru 3 in Answer, that the Court together with a jury hear all evidence and determine all issues & make declaration that Chapt. 31 of '69 Session Laws of N.C. is not in vio. of 14th Amendment to U.S. Constitution & that action be dismissed—that costs and disbursements of action be taxed against plff. w/Cert. of Service
8/ 8/69	Issued NOTICE OF HEARING ON MOTIONS at Raleigh, N.C., on 8/25/69 at 2:30 p.m., or as soon thereafter as counsel can be heard, in the U.S. Courtroom, Post Office Bldg. Cy. to Atty. Gen. of U.S., U.S. Atty., Schwelg, Dept. of Justice Atty., Kennedy, Dept. of Justice Atty., Atty. Crew and Atty Josey—mailed by certified mail.
	Fil. & ent. Defendant Halifax County Bd. of Ed. RESPONSE TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION, MOTION FOR LEAVE TO JOIN AN ADDITIONAL PARTY DEFENDANT, AND MOTION TO FILE AN AMENDED COMPLAINT. w/Cert. of Ser. & Exhibit A attached
	Fil. & ent. ANSWER of deft. Halifax County Board of Education—praying that action be dismissed and that if action is not dismissed as against this deft. for reasons set forth in this answer, that the court together with a jury hear all evidence & determine all issues & make necessary declaration & finding raised in this action; that costs & disbursement of this action be taxed against plff. w/Cert. of Ser. & Exhibit A attached.

DATE	PROCEEDINGS
8/15/69	Fil. & Ent. ORDER that cleck file amended complaint & U.S. Marshal serve a copy on defts. in amended complaint, deft. shall file answer or other pleading with respect to amended complaint prior to noon 8/20/69. (LARKINS, J.) (Civ.O.B.#VI,P.1928) 8 cc to U.S. Marshal for service along with complaint. (Orig. to J. Larkins for file)
	Fil. & ent. AMENDED COMPLAINT—w/Exhibit A attached. 8 cc to U.S. Marshal for service. (Orig. to J. Larkins for file along w/Clk.'s cy. for his convenience)
	Issued Summons w/Complaint & Order to U.S. Marshal for service—Orig. & 8 cc to Marshal Made endeavor to serve J. I. Walston at Scotland Neck, N.C. & learned deft. on vacation & could not be located. On 8/19/69 at Scotland Neck, N.C., served J. I. Walston, Member of Bd. of Commrs. of Town of Scotland Neck, N.C.
8/25/69	Fil. & ent. ORDER—that motion to dismiss by defts. Ferd L. Harrison, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr. & Town of Scotland Neck, is allowed; deft. Scotland Neck City Bd. of Ed., its officers, etc. are enjoined from taking any action pursuant to provisions of Chap. 31 pending final determination on merits of the issues raised; pursuant to provisions of R.65(c) of F.R.C.P., no security shall be required of plff., U.S.A., & order to become effective at 12:00 Noon, on Mon., 8/25/69, (Judges, Larkins & Butler) (Civ.O.B.#VI,P. 1942) Cy. to Attys. Ellis, Creech & Crew. Cy. to defts. Frank P. Shields, Chairman Scotland Neck City Bd. of Ed., Scotland Neck, N.C. & Macon L. Moore, Chairman Halifax Co. Bd. of Ed., Littleton, N.C.

DATE	PROCEEDINGS
8/25/69	Fil. & ent. MEMORANDUM OPINION (Findings of Fact & Conclusions of Law) Filed in support of order of this date and is included therein by reference. (LARKINS, J.) (Civ.O.B.#VI,P. 1943) Cy. to Attys. Kennedy, Crew & Josey. Cy. to defts. Halifax Co. Bd. of Ed., Macon L. Moore Chairman, Littleton, N.C., Ferd L. Harrison, Mayor & Chairman of Bd. of Commrs. of Town of Scotland Neck; Bd. of Commrs. of Town of Scotland Neck—J. A. Andrews, F. G. Shearin, J. I. Walston & D. E. Josey, Jr.; Town of Scotland Neck through Mayor & Scotland Neck City Bd. of Ed. through Frank P. Shields, Chrmn. Scotland Neck City Bd. of Ed.
	Fil. & ent. DEPOSITION OF DR. CRAIG PHILLIPS taken at Raleigh, 8/4&5/69
	Fil. & ent. DEPOSITION OF HENRY L. HARRISON taken at Halifax, N.C., 7/23/69
	Fil. & ent. DEPOSITION OF FRANK P. SHIELDS taken at Scotland Neck, N.C., 7/24/69.
	Fil. & ent. DEPOSITION OF FERD L. HARRISON taken at Scotland Neck, N.C., 7/24/69
	Fil. & ent. DEPOSITION OF AUBREY POWELL taken at Scotland Neck, N.C. 7/24/69
	Fil. & ent. DEPOSITION OF W. HENRY OVERMAN taken at Halifax, N.C., 7/14&15/69.
8/26/69	Fil. & ent. ORDER that deft. Scotland Neck City Bd. of Ed. have until 5:00 p.m., 9/5/69 to file amended answer & further ordered that copy of same be served upon plff. as provided by Fed. Rules Civ. Procedure. (LARKINS, J.) (Civ.O.B.#VI,P.1944) Cy. to Attys. Josey, Kennedy, Crew & U.S. Atty.
	Fil. & ent. DEPOSITION OF F. BOYD BAILEY taken at Scotland Neck, N.C., 8/6 & 7/69.

DATE	PROCEEDINGS
8/27/69	Fil. & ent. DEPOSITION OF C. M. MOORE, JR., taken at Scotland Neck, N.C., 8/6/69.
8/29/69	Fil. & ent. U.S. Marshal's Return on Civ. Subpoena: Served 8/22/69 at Raleigh, N.C., upon Coline Jackson. On 8/20/69 at Red Springs, N.C., service upon I. J. Wicker.
9/ 3/69	Fil. & ent. AMENDED ANSWER of The Scotland Neck City Board of Education—praying that Court declare to be constitutional Chap. 31 of 1969 Session Laws of N.C.; that temporary injunction issued on 8/25/69 be dissolved; & that Court retain jurisdiction of cause for receipt of plan of transfer to be submitted by this deft. to the Court & for hearing of any objection that may be filed thereto. w/Cert. of Service
9/13/69	Fil. w/Judge Larkins, Jr. MOTION of deft. Scotland Neck City Bd. of Ed. praying that order be entered modifying temporary injunction order of 8/25/69 to effect that said deft. be allowed to receive donations from private sources & use such funds, together w/tuition funds now in its hands, for repayment of amts. paid by parents of tuition students, & further that Board be permitted to use said privately donated funds for purpose of legal expenses and fees incurred & to be incurred until this matter is finally determined. Cert. of Service attached thereto
9/22/69	Fil. & ent. PLAINTIFF'S INTERROGATORIES w/Cert. of Service (2 filed copies returned to Atty. Kennedy)
10/ 1/69	Fil. & ent. ORDER that deft. Scotland Neck City Bd. of Ed. be allowed to receive donations from private sources and use such, together with tuition funds in hand, for repayment of amts. paid for students tuition, & further Board be permitted to use such funds for legal expenses

DATE	PROCEEDINGS
	& fees incurred. Clk. to serve copies of this order upon counsel. (LARKINS & BUTLER, J.) (Civ.O.B.#VI,P.1962) 1 cc to U.S. Atty., Attys. Schwelb & Kennedy, atty. Crew, Josey & Joyner
10/ 7/69	Issued Notice of Pre-Trial Conference at Raleigh, N.C., on Wed., 10/15/69 at 2:30 p.m. Cys. to U.S. Atty., Schwelb, Kennedy, Crew, Josey & Joyner. 1 cc to J. Larkins (Cont'd.)
10/13/69	Issued Notice of Pre-Trial Conference at Trenton, N.C., on Mond., 10/20/69 at 12:00 Noon in Judge's Chambers, U.S. Post Office Bldg. Cy. to Attys. Schwelb, Kennedy, Crew, Josey & Joyner & U.S. Atty. 1 cc to J. Larkins
10/13/69	Fil. & ent. MOTION OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, TO INTERVENE IN THIS ACTION IN BEHALF OF THE STATE OF NORTH CAROLINA, AS PARTY DEFENDANT w/Cert. of Service, Proposed Answer and Proposed Order attached. Copy of pleadings fwd. to J. Larkins, w/orig. of order.
10/15/69	Fil. & ent. PLAINTIFF'S INTERROGATORIES TO DEFENDANT HALIFAX COUNTY BOARD OF EDUCATION. w/Cert. of Service 2 "filed" copies returned to U.S. Dept. of Justice.
10/16/69	Fil. & ent. HALIFAX COUNTY BOARD OF EDUCATION DESEGREGATION PLAN—OCTOBER 15, 1969. w/Map attached. (J. Larkins furnished copy by Atty. Crew)
10/30/69	Fil. & ent. TRANSCRIPT OF HEARING ON MOTION OF PLAINTIFFS FOR PRELIMINARY INJUNCTION AND DECLARATORY JUDGMENT (in two volumes).
10/30/69	Fil. & ent. EXCERPT FROM REPORTER'S NOTES on hearing on Saturday, 8/23/69 in Raleigh, N.C. original only.

DATE	PROCEEDINGS
10/30/69	Filed & Ent. ORDER—allow motion to intervene —plaintiff's Maryetta Richardson, Montenia, Timmie, Charlotte, and Jimmy Richardson, on behalf of several other citizen and residents of Halifax County, N.C. copies to all attorneys of record. (Judge Butler & Judge Larkins signed 10/30/69) (Civ.O.B.VI—P. 1977)
*11/3/69	Filed & Ent. ORDER—allow intervention of Robert Morgan, Attorney General of North Carolina, in behalf of the State of N.C. (Judge Butler & Judge Larkins) (Civ.O.B.#VIpage 1978)
11/ 4/69	Filed & Ent. ANSWER TO PLAINTIFF'S INTERROGATORIES—alongwith names and color of all teachers. w/copy each. and letter of service by mail of each.
11/ 3/69	Filed in open court, ORDER—on motion of defendant Halifax County, allowed be dismissed as to the question of constitutionality of the Act creating the Scotland Neck Unit. Defendant will no longer be required to defend or appear concerning the constitutionality, but is not relieved of action involve other violations of Civil Rights Act. (Judge Larkins) (Civ. O. B. #VI —P. 1980)
	Received: NEWS CLIPPINGS—Scotland Neck Commonwealth and News Observer, Envelope.
	Filed & Ent. LIST OF WITNESSES FOR SCOTLAND NECK CITY BOARD EDUCATION w/copy.
	Filed & Ent. LIST OF EXHIBITS THAT SCOTLAND NECK CITY BOARD expects to use at trial of matter on its merits.
11/ 7/69	Forwarded to Judge Larkins—Plaintiff's Exhibit No. 2, School Survey.
	Duplicate of original filed 11-3-69.

DATE	PROCEEDINGS
*11/3/69	Fil. & ent. ANSWER OF ROBERT MORGAN, ATTY. GEN. OF N.C., IN BEHALF OF THE STATE OF N.C. — INTERVENOR-DEFT., praying that Chap. 31, Sessions Laws of 1969, enacted by Gen. Assembly of N.C. be declared constitutional, and valid; action be dismissed and Temporary Restraining Order heretofore entered in this action be dismissed; such other relief granted by court as may be proper and just. cy.
11/13/69	Fil. & ent. ORDER EXTENDING TIME TO FILE TRIAL BRIEF. (LARKINS, J.) (Civ.O.B. #VI,p.1983) Cy. to all counsel of record this date.
	Fil. & ent. MOTION PENDING THE LITIGATION, cy.
	PLAINTIFF'S OBJECTIONS TO THE DEFENDANTS PLAN DESEGRATION OF ITS SCHOOLS (no cy.)
	PLAINTIFF'S MEMORANDUM IN SUPPORT OF ITS OBJECTIONS TO THE PROPOSED DESEGREGATION PLAN OF DEFENDANT AND PLAINTIFF'S MOTION PENDING THE LITIGATION. (no cy.)
	MEMORANDUM OF PRE-TRIAL CONFERENCE. (no cy.) (LARKINS, J.) (Cy. of letter to J. Larkins from Dept. of Justice states all counsel have been served.) (Civ.O.B.#VI.P.1984)
11/14/69	Fil. & ent. MEMORANDUM BRIEF OF ROBERT MORGAN IN BEHALF OF NORTH CAROLINA, Copies of notice of brief mailed to all attys. of record.
11/20/69	Fil. & ent. STATEMENT OF ISSUES, by plaintiff.

DATE	PROCEEDINGS
11/24/69	Issued Notice of Hearing—to all counsel of record, hearing set on constitutional issues and plan of desegregation for 12/17/69.
11/24/69	Fil. MEMORANDUM OPINION AND ORDER that Board of Ed. of Halifax Cy. submit on 12/15/69 a Plan to terminate present dual school system at once and to operate only unitary schools; further that a hearing upon said Plan shall be held in Raleigh, N.C. on Thursday, 12/18/69. 1 cc—J. Larkins' office mailed copies to all counsel of record & retained cy. (LARKINS, J.) (Civ.O.B.#VI,P.1994) (Ent. 11/28/69)
11/26/69	Fil. & ent. PLAINTIFF'S REPLY BRIEF TO MEMORANDUM OF DEFENDANT-INTERVENOR Cy. to J. Butler & Larkins & 2 cy. to plff.
12/ 5/69	Fil. & ent.—ORDER to amend order of 11-24-69. The Board of Ed. is to submit with plan on 12/15/69 to terminate the present dual school system, projected statistics for student bodies & faculty by race & school, and a map depicting any proposed zones or attendance areas for each school. (LARKINS, J.) (Civ.O.B.#VI, P.2000) Cys. mailed to all counsel
12/12/69	Fil. & ent.—ORDER—deliver to Mrs. Wilda Y. Hauer, cy. of transcript to be returned to the office of Clerk, Tuesday, 12/16/69. (Civ.O.B. #VI,P.2008)
12/15/69	Received copy of Resolution of Halifax County, Interim Plan, letter to Dr. J.L. Pierce, amended Interim Plan, map of project statistics for student body, and statistics for faculty by race, with copy of letter to Judge Larkins who received the originals and one copy of each paper. (Clerk's Office has not had the orig. for filing)

DATE	PROCEEDINGS
12/17/69	Fil. & ent. MOTION FOR LEAVE TO INTERVENE, by Pattie Black Cotton & Edward M. Francis, teachers, and minor students by next friends. (ent. 12/19/69)
	Fil. in Open Court—Plff's. Proposed Findings of Fact, Conclusions of Law and Proposed Order w/cy. of Memorandum Opinion of U.S.D.C.—E.D. Arkansas, Pine Bluff Div. (Ent 12/19/69)
	Fil. & ent. MARSHAL'S RETURN on service of Civ. Subpoena on Henry L. Harrison, at Scotland Neck, N.C., 12/15/69 J. W. Norton, USM.
	Fil. & ent. MARSHAL'S RETURN on service of Civ. Subpoena on Dr. B. Paul Hammack by leaving copy with wife at res. at Elizabeth City, N.C. 12/15/69. J. W. Norton, USM
12/18/69	Fil. & ent. SCOTLAND NECK CITY BD. OF EDUCATION-BRIEF SUMMARY OF DEPOSITIONS. (J. Butler has orig. & J. Larkins has cy. Filed in Open Court)
12/19/69	Fil. & ent. FURTHER CONTENTIONS FOR INTERVENTION By Pattie Black Cotton & Edward M. Francis, teachers, & minor school children w/Cert. of Ser. & Proposed ORDER MAKING ADDITIONAL DEFENDANTS. Cys. of filing to J. Larkins w/orig. proposed Order of Cert. of Ser. on additional Defts. of Motion & Complaint in Intervention.
12/19/69	Fil. & ent. MARSHAL'S RETURN of service of Civ. Subpoena on Vernon L. Dusenbury at Tryon High School, Tryon, N.C. on 12/15/69. Thomas M. Green, DUSM, W.D.N.C.
	Fil. & ent. MARSHAL'S RETURN of service of Civ. Subpoena on Hugh D. Randall at Bd. of Ed. Hendersonville, N.C. 12/15/69. Thomas J. Greene, DUSM, WDNC

DATE	PROCEEDINGS
12/22/69	Fil. & ent. OBJECTIONS OF N.C. STATE BD. OF ED. and DR. A. CRAIG PHILLIPS, STATE SUPT. OF PUBLIC INSTRUCTION, TO MOTION AND COMPLAINT IN INTERVENTION. 2 cys.
12/23/69	Fil. & ent. INTERVENORS REPLY TO OBJECTIONS TO INTERVENTION w/Cert. of Service Served on Frank D. Wilson, Sr.
	Fil. w/Judge Larkins—DEFENDANT, HALIFAX COUNTY BOARD OF EDUCATION'S OBJECTIONS TO MOTION FOR LEAVE TO INTERVENE BY PATTIE BLACK COTTON AND EDWARD N. FRANCIS, ET AL. w/Cert. of Service and MEMORANDUM IN SUPPORT OF ITS OBJECTIONS
	Fil. & ent. 12-29-69—TRANSCRIPT OF HEARING ON DESEGREGATION PLAN AT RALEIGH, N.C. ON DECEMBER 19, 1969 by Ward Allen Court Reporter. Cy.
12/24/69	Issued NOTICE OF HEARING—On Objections to Motion for Intervention, to all counsel of record—At Trenton, N.C. 1/2/70 at 12:00 noon in Chambers, cy. to J. Larkins
	Fil. & ent. MARSHAL'S RETURN ON SERVICE —Served Summons on Charles E. Fleming Dec. 22, 1969
	Fil. & ent.—RESPONSE OF DEFENDANT, SCOTLAND NECK CITY BOARD OF EDUCATION, TO MOTION OF PATTIE BLACK COTTON, ET AL FOR LEAVE TO INTERVENE. w/Cert. of Ser.
12/29/69	Fil. & ent. MOTION OF BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY FOR ADDITIONAL TIME WITHIN WHICH TO FILE ANSWER AND OBJECTIONS TO THE MOTION FOR LEAVE TO INTERVENE

DATE	PROCEEDINGS
	AND MAKE NEW PARTIES FILED HEREIN BY JAMES R. WALKER, et al. Cy. to J. Larkins — J. Butler
	Fil. & ent. ORDER—Granting extension of time to Board of County Commissioners of Halifax County. Cy. to J. Buttler & J. Larkins. (Civ. O.B. #VI,P.2013)
12/30/69	Fil. & ent. PLAINTIFF'S MEMORANDUM IN OPPOSITION TO THE MOTION FOR LEAVE TO INTERVENE FILED DEC. 17, 1969 ON BEHALF OF PATTIE BLACK COTTON AND OTHERS. with MOTION—The Plff. moves this court deny the pending Motion for Leave to Intervene.
12/31/69	Fil. w/Judge Larkins—OBJECTIONS OF THE BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY TO MOTION AND COMPLAINT IN INTERVENTION AND TO IT BEING MADE A PARTY DEFENDANT TO THIS ACTION. w/Cert. of Service
1/ 8/70	Fil. & ent. RESPONSE TO MOTION FOR LEAVE TO INTERVENE by Deft. Littleton-Lake Gaston School District and Russell N. Manning. (Orig. mailed to J. Larkins to place in case file.)
	Fil. w/Judge Larkins—REQUEST OF THE BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY THAT THAT PART OF MOTION OF PATTIE BLACK COTTON, ET ALS, REQUESTING THAT IT BE MADE A PARTY DEFENDANT BE DISMISSED AND DISALLOWED EVEN THOUGH INTERVENTION IS ALLOWED. w/Cert. of Service (J. Larkins has copy.)

DATE	PROCEEDINGS
1/ 9/70	Fil. w/Judge Larkins—MEMORANDUM OPINION AND ORDER—Motion for Leave to Intervene (by Pattie Black Cotton, Edward M. Francis & others) is allowed; FURTHER orig. defts. & additional defts. named in complaint in intervention (Mr. W. Henry Overman, Supt. of Halifax Cy. Schs.; the Bd. of Commrs. of Halifax Cy.; Scotland Neck City Bd. of Ed.; Franklin B. Bailey, Supt. of Scotland Neck City Schs.; Littleton-Lake Gaston Sch. Dist. & Russell N. Manning, Supt. of Littleton-Lake Gaston Sch. Dist.; & the N.C.St. Bd. of Ed., & Dr. Craig Phillips, N.C.St. Supt. of Public Instruction) are ordered to answer or otherwise plead within 20 days in accordance with R.12 of F.R.C.P. FURTHER—Clerk to serve cy. of this paper upon all counsel of record. (LARKINS, J.) (Civ.O.B.#VI,P.2051) (Ent. 3/12/70) Cy. served on all parties by J. Larkins' office & J. Larkins has Cy. as well as J. Butler.
	Fil. & ent. COMPLAINT IN INTERVENTION by Pattie Black Cotton, Edward M. Francis, Public Sch. Teachers of Halifax County, et als.
1/12/70	Fil. & ent. TRANSCRIPT OF MOTION HEARING AT TRENTON, N.C., JAN. 2, 1970.
1/26/70	Fil. & ent. MOTION of defts. Scotland Neck City Board of Education Q Franklin B. Bailey, Supt. of Scotland Neck Cy. Scls., for extension of time within which to answer or otherwise plead to Complaint of intervenors until 2/27/70. w/Cert. of Ser. (Clerk's cy. to J. Larkins)
	Fil. & ent. ORDER extending time within which to answer or otherwise plead to Complaint of intervenors to & including 2/27/70 for defts. Scotland Neck City Bd. of Ed. & Franklin B. Bailey, Supt. of Scotland Neck City Schools. (LARKINS, J.) (Civ.O.B.#VI,P.2052) Cy. to Attys. Walker, Joyner, Josey, Crew, Howard & Atty. Gen. Morgan.

DATE	PROCEEDINGS
	Fil. & ent. MOTION TO ENLARGE TIME FOR HALIFAX COUNTY BD. OF ED. TO FILE ANSWER TO COMPLAINT IN INTERVENTION BY APPLICANTS, PATTIE BLACK COTTON, ET ALS. (J. Larkins has cy.) w/Cert. of Service
	Fil. & ent. ORDER TO ENLARGE TIME TO FILE ANSWER TO COMPLAINT IN INTERVENTION for Halifax County Bd. of Ed. until 3/1/70. (LARKINS, J.) (Civ.O.B.#VI,P.2053) Cy. to Attys. Walker, Joyner, Josey, Crew, Howard & Atty. Gen. Morgan
1/28/70	Fil. & ent. MOTION TO DISMISS Complaint in Intervention as against Russell N. Manning. w/Cert. of Service Cy. to J. Larkins
	Fil. & ent. ANSWER PRESENTING DEFENSES TO COMPLAINT IN INTERVENTION by deft. Littleton-Lake Gaston School District. w/Cert. of Service. Cy. to J. Larkins
1/30/70	Fil. & ent. ANSWER OF DEFENDANT SCOTLAND NECK CITY BD. OF ED. to Complaint in Intervention & an affirmative plea that the court preserve the present status of school attendance in the Scotland Neck School pending the final determination of the issues in this cause. w/Photostatic cy. of newspaper clippings Cert. of Service attached thereto
2/ 2/70	Fil. & ent. MOTION OF DEFENDANT, BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY, that it be granted additional time within which to answer or otherwise plead to the complaint in intervention filed herein by Pattie Black Cotton, et al w/Cert. of Service

DATE	PROCEEDINGS
2/ 2/70	Fil. & ent. ORDER TO ENLARGE TIME TO FILE ANSWER OR OTHERWISE PLEAD TO COMPLAINT IN INTERVENTION to & including 2/18/70 for Bd. of County Commrs. of Halifax County. (LARKINS, J.) (Civ.O.B.#VI, P.2029) Cy. to Counsel of Record.
2/17/70	Fil. & ent. ANSWER TO COMPLAINT IN INTERVENTION BY BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY. w/Cert. of Service. Cy. to J. Larkins
2/25/70	Fil. & ent. ANSWER AND MOTION TO DISMISS OF THE DEFENDANT, FRANKLIN B. BAILEY, TO THE COMPLAINT IN INTERVENTION. w/Cert. of Service
3/ 2/70	Fil. w/Judge Larkins—ANSWER OF DEFT. HALIFAX COUNTY BOARD OF EDUCATION TO THE COMPLAINT IN INTERVENTION AND AN AFFIRMATIVE PLEA THAT THE COURT DELAY FURTHER AND FINAL DETERMINATION OF ALL OTHER ISSUES RAISED HEREIN PENDING FINAL DETERMINATION OF THE CONSTITUTIONALITY OF THE ACT CREATING THE SCOTLAND NECK CITY SCHOOL ADMINISTRATIVE UNIT AND ALSO DELAY ANY FURTHER ORDER FOR IMPLEMENTATION OF ANY SCHOOL DESEGREGATION PLAN UNTIL JUNE 1, 1970. w/Cert. of Service
5/19/70	Fil. & ent. ORDER that motion of defts. that effective date of implementation be delayed until end of school year—on or about 6/1/70—is allowed; and that "Proposed Interim Plan" of deft. Halifax Co. Bd. of Ed., same having been adopted by Court be Implemented by Bd. no later than 6/1/70. Further-motion of plff. for immediate implementation at mid-year is denied.—Clerk

DATE	PROCEEDINGS
	to serve copy upon all counsel of record. (LARKINS, J.) (Civ.O.B.#VII,P.2093) Cert. cy. mailed to Civ. Rts. Atty. Kennedy, Attys. Crew, Josey, Joyner, McLean, Parker, Walker, Creech, Att. Gen. of N.C., Halifax Co. Bd. of Ed. & W. Henry Overman, Supt.
5/26/70	Fil. & ent. OPINION and ORDER that further implementation of Chapter 31 of the 1969 Session Laws of N.C. is permanently enjoined & Clk. directed to serve copies of this Opinion & Order upon all counsel of record. (J. BUTLER & J. LARKINS) (Civ.O.B.#VII,P.2098) Cert. cy. to Civ. Rts. Attys. Howard & Kennedy, Attys. Walker, Crew, Josey, Joyner, Creech, McLean, Parker & Atty. Gen. of N.C. Cy. to J. Larkins
5/26/70	Fil. & ent. JUDGMENT that Chapter 31 of Session Laws of North Carolina 1969 creating Scotland Neck Administrative Unit is declared to be unconstitutional & null & void. Defts., their respective officers, agents, etc., are permanently enjoined from any & all further proceedings pursuant to said statute. (J. BUTLER & J. LARKINS) (Civ.O.B.#VII,P.2099) (Ent. 6/10/70)
*6/ 3/70	Fil. & ent. MOTION to amend "Proposed Interim Plan" of deft. Halifax Co. Bd. of Ed. as prepared by N.C. Dept. of Instruction. w/Excerpts from Minutes of Halifax Co. Bd. of Ed. Meeting 4/6/70 & Ltr. to W. Henry Overman from J. L. Pierce, Director, Div. of Sch. Planning attached thereto
*6/ 2/70	Fil. & ent. (Revised) HALIFAX COUNTY MAP indicating School Districts and different schools.
6/ 3/70	Fil. & ent. AMENDED ORDER—that "Proposed Interim Plan" of deft. Halifax Co. Bd. of Ed. subject to secondary amendments of Bd. included in Proposal to Court be amended as set

DATE	PROCEEDINGS
	out in Motion; that Order of this Court dtd 5/18/70 is amended ..... Clk. to serve cys. upon all counsel. (LARKINS J.) (Civ.O.B.#VII, P.2100) Cert. cy. to Civ. Rts. Atty. Howard & Attys. Walker, Crew, Josey, Joyner, Creech, McLean, Parker & Atty. Gen. of N.C.
6/17/70	Fil. & ent. NOTICE OF APPEAL by Scotland Neck City Bd. of Ed., deft. Following counsel served w/notice & advised of Local R.10 A&B and Rule 10 & 12 along w/deft. filing: Civ. Rts. Atty. Howard, Attys. Walker, Crew, Josey, Joyner, Creech, McLean, Parker & Atty. Gen. of N.C.
**6/29/70	Fil. & ent. BOND FOR COSTS ON APPEAL in amount of $250.00—U.S. Fidelity and Guaranty Co., Surety
7/ 1/70	Fil. & ent. NOTICE OF APPEAL by Robert Morgan, Atty. Gen. N.C.; N.C. State Board of Education and Dr. A. Craig Phillips, State Super. of Public Instruction. Parties filing advised as well as the following of Gen. Rule 10A & B, U.S. Dist. Ct., E.D.N.C. and Rules 10 & 12 F.R.A.P.: Howard, Civ. Rts. Atty.; Walker; Crew; Josey; Joyner; Creech; McLean & Parker
7/ 2/70	Fil. & Ent.—BOND FOR COST—by defts. $250.00, Great American Insurance Co. Surety.
7/13/70	Issued NOTICE OF HEARING ON MOTION TO AMEND INTERIM PLAN at Raleigh, N.C., at 11:00 A.M., Tues., 7/21/70—Courtroom #2. Copy mailed to Attys. Landsberg, Walker, McLean, Crew, Josey, Joyner, Creech, Parker & Atty. Gen. of N.C. cc to J. Larkins
**6/25/70	Fil. & ent. MOTION of deft. Halifax County Board of Ed. for further amendment to "Proposed Interim Plan" of this deft. w/Cert. of Service & Exhibit A (Map) attached (This motion filed w/J. Larkins)

DATE	PROCEEDINGS
7/ 3/70	Received by J. Larkins & placed on docket at his request: Cy. of ltr. from Atty. Josey to Clk. Phillips, 4th Cir. Ct. of Appeals, w/cy of Motion for Shortening Time for Filing Briefs w/4th Cir. Ct. of Appeals & Proposed Order
7/14/70	Fil. & ent. PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO AMEND INTERIM DESEGREGATION PLAN APPROVED MAY 19. 1970
7/15/70	Fil. & ent. CERTIFICATE OF SERVICE of Plff.'s serving aforementioned Response upon defts.
	Fil. & ent. defendant Scotland Neck City Bd. of Ed.'s ANSWER TO MOTION of Halifax County Bd. of Ed., dtd. 6/24/70, stating that it does not object to said motion & joins w/deft. Haiifax Cy. Bd. of Ed. in requesting Court that said Motion be allowed. w/Cert. of Service jwt
7/21/70	Fil. & ent. PLAINTIFFS' IN INTERVENTION OPPOSITION TO DEFENDANT'S MOTION TO AMEND INTERIM DESEGREGATION PLAN APPROVED MAY 19, 1970—praying that the Court deny Motion of Deft. Sch. Bd. to amend Order of 5/19/70 as amended by order of Court on 6/1/70.
	Fil. & ent. EXHIBIT E of Plaintiffs' in Intervention—an additional exhibit to their Complaint in Intervention.
7/27/70	Fil. & ent. TRANSCRIPT OF HEARING ON THE MERITS, 12/17/69, before Judges Butler & Larkins in Raleigh, N.C.
7/28/70	Fil. & ent. ORDER that motion of defts. to amend the Order of 5/19/70 with respect to the operation of the Scotland Neck School and the Brawley School is denied; and Further Ordered that the Clerk serve copies of this order upon all counsel of record. (LARKINS, J.) (Civ.O.B.

DATE	PROCEEDINGS
	#VII,P.2128) Cert. cy. to Civ. Rts. Attys. Dempsey & Kennedy, Jerris Leonard, Asst. Atty. Gen., c/o Leslie Smith, Jr., Atty., Ed. Sect., Walker, Mitchell, Crew, Josey, Joyner, Creech, McLean, Parker & Atty. Gen. of N.C.
	Fil. & Ent.—CERTIFICATE OF SERVICE by delivering a copy of the Exhibit "E" to Complaint of Plaintiffs in Intervention.
7/28/70	Mailed record on Appeal to 4th Cir. Ct. of Appeals—8 Volumes Cy. of transmittal letter w/Index to Attys. of Record & Judges Butler & Larkins.
3/19/71	Fil. & ent. NOTICE of Hearing on Motion for Supplemental Relief to be set by the Court.
	Fil. & ent. MOTION FOR SUPPLEMENTAL RELIEF by plff. w/Cert. of Ser. as to Notice & Motion w/Attachments to Motion. (Cy. to J. Larkins) jwt
3/24/71	Fil. & ent. OPINION of 4th Cir. Ct. of Appeals reversing decision of this court which declared Chapt. 31 of 1969 Session Laws of N.C. unconstitutional and permanently enjoining any further implementation of the statute.
4/ 5/71	Fil. & ent. ANSWER of SCOTLAND NECK CITY BOARD OF EDUCATION TO MOTION BY THE PLAINTIFF UNITED STATES OF AMERICA FOR SUPPLEMENTAL RELIEF w/Cert. of Ser. (Cy. to J. Larkins) jwt
4/ 9/71	Fil. & ent. MOTION TO EXTEND TIME FOR FILING REPLY OR OTHERWISE PLEAD TO PLAINTIFF'S MOTION FOR SUPPLEMENTAL RELIEF w/ORDER extending time for Halifax County Bd. of Ed. & all other defts. & other parties hereto file reply to Motion for Supplemental Relief or to otherwise plead to

DATE	PROCEEDINGS
	Midnight, 5/5/71. Right to shorten or extend this time is retained by court. (DUPREE, J.) w/Cert. of Ser. (O.B.#VII,P.2291) (Cy. to J. Larkins) jwt
5/14/71	Fil. & ent. MOTION TO EXTEND TIME FOR FILING REPLY OR OTHERWISE PLEAD TO PLAINTIFF'S MOTION FOR SUPPLEMENTAL RELIEF UNTIL FINAL ACTION BY THE U.S. SUPREME COURT & ORDER—ordered motion is allowed & Halifax County Bd. of Educ. & all parties to suit be granted additional time for filing a Reply or otherwise pleading to Motion for Supplemental Relief until 20 days after Supreme Ct. has ans. plff's petition. If said writ denied & extension of time until 30 dys after U.S. Supreme Ct. has rendered final decision if writ is granted. Right to shorten or extend time is retained by court. (DUPREE,) Civ.O.B.#VII,P.2315 cc: Crew, Josey, Walker, Landsberg (Wash. D.C.) & Moody w/Cert. of Service
5/27/71	Fil. & ent. MOTION TO RECONSIDER ORDER ENTERED MAY 13, 1971—plff. prays that Court reconsider order of 5/13/71 & will strike that part of order granting all parties 30 days after U.S. Supreme Ct. renders decision in Scotland Neck, supra, if certiorari is granted, to reply to plff.'s Motion for Supplemental Relief and instead require all parties to respond within 20 days after Ct. rules on plff.'s petition whether certiorari is granted or denied. w/Cert. of Ser. 2 CC & 2 cys. to U.S.A.
	Fil. & ent. NOTICE OF MOTION to be heard at time & place determined by the Court.
	Fil. & ent. MEMORANDUM IN SUPPORT OF MOTION TO RECONSIDER ORDER ENTERED MAY 13, 1971.

[Caption Omitted]

COMPLAINT

CLAIM ONE

The plaintiff, UNITED STATES OF AMERICA, alleges:

1. This action is instituted by the United States of America, pursuant to Sections 407(a) and (b) of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c-6(a) and (b). The statutory requirements for bringing such an action under 42 U.S.C. §§ 2000c-6(a) and (b) have been met as follows:

(a) The former Attorney General, Nicholas deB. Katzenbach, received complaints in writing signed by parents to the effect that their minor children, as members of a class of persons similarly situated, are being deprived by the defendant School Board of the equal protection of the laws;

(b) The Attorney General has certified that he believes these complaints to be meritorious;

(c) Attached hereto is the Attorney General's certification that:

(1) the signers of the complaints are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of this action will materially further the orderly achievement of desegregation in public education;

(2) after giving notice of the complaints to the defendant School Board, he is satisfied that the Board has had a reasonable time to adjust the conditions alleged in such complaint.

2. This Court has jurisdiction of this action under 28 U.S.C. § 1345 and 42 U.S.C. § 2000c-6.

3. The defendant Halifax County Board of Education is a body corporate, organized and existing under the laws of the State of North Carolina. It has the duty under North Carolina law to operate a public school system in Halifax County, North Carolina, which is located in the Eastern District of North Carolina.

4. This action is brought against the defendant Ferd L. Harrison in his official capacity as Mayor of the Town of Scotland Neck, and against the defendants J. A. Andrews, F. G. Shearin, Frank P. Shields, and J. I. Walston, in their official capacities as members of the Board of Commissioners of the said Town of Scotland Neck. The Mayor and the Board of Commissioners constitute the governing authority of the Town of Scotland Neck. In their official capacities these defendants are charged under North Carolina law with conducting the operations of the municipal government of the Town of Scotland Neck, and in particular, are charged under Chapter 31, 1969 Sessions Laws, with appointing the initial members of the Scotland Neck City Board of Education, which is the governing board of the Scotland Neck City Administrative Unit. These defendants reside in the Town of Scotland Neck within the Eastern District of North Carolina.

5. The Town of Scotland Neck is a public body corporate, organized and existing under the laws of the State of North Carolina and located in Halifax County within the Eastern District of North Carolina. This defendant is charged under North Carolina law with providing municipal government within its jurisdiction, and in particular, with levying and collecting taxes within its jurisdiction, including the taxes authorized by Chapter 31, 1969 Sessions Laws to be paid over to the Scotland Neck City Administrative Unit.

6. Prior to the 1965-66 school year the defendant Halifax County Board of Education operated a completely segregated school system based on race. Since that time this defendant has operated its school system pursuant to a freedom-of-choice plan of desegregation, modified for the year 1968-69 by the assignment of some additional Negroes to desegregated schools. This defendant operates a total of seventeen schools, four of which have historically been maintained for white persons, and thirteen of which have historically been maintained for Negroes. During the school year 1968-69 all of the approximately 2357 white pupils in the district remain in traditionally

white schools and 91% of the approximately 8196 Negro pupils remain in all-Negro schools.

7. The defendant Board of Education presently controls and operates one school within the geographical boundaries of the Town of Scotland Neck. This school is a traditionally white school, known as the Scotland Neck High School.

8. The defendant Board of Education proposes to assign students to schools for the 1969-70 school year pursuant to its freedom-of-choice plan of desegregation.

9. On or about March 3, 1969, there was enacted into law a statute known as "Chapter 31, 1969 Sessions Laws," (hereafter referred to as Chapter 31) a copy of which is attached herewith as Exhibit A. Chapter 31 provides, in pertinent part, for the creation of a new public school administrative unit to be known as the Scotland Neck City Administrative Unit (Section 1). The creation of this special school system was made subject to majority approval at a special election held only for the voters of Scotland Neck (Sections 3, 7 and 8). Chapter 31 further provides that upon the approval of a majority of the voters and the creation of the Scotland Neck City Administrative Unit, all school properties located within the new school system and all monies allocated for schools within the new school system, shall become the property of the new system, and legal title to such school properties shall be transferred by the Halifax County Board of Education to the new Scotland Neck City Administrative Unit (Section 5). After approval of the new school system, the Mayor and Board of Commissioners of Scotland Neck are required to appoint the initial members of the Scotland Neck City Board of Education, which Board is to administer the new school system (Section 2).

10. There are at present 399 white and 296 Negro students who reside within the boundaries of the Town of Scotland Neck, who attend schools operated by the defendant Halifax County Board of Education, and who became eligible to attend schools operated by the Scotland Neck City Administrative Unit with the approval and creation of such a new school system.

11. On April 8, 1969 a special election was held in Scotland Neck pursuant to the provisions of Chapter 31, in which a majority of the votes cast were in behalf of approving the creation of the Scotland Neck City Administrative Unit. The provisions of Chapter 31 became effective and operative on or about April 8, 1969.

12. The enactment and implementation of Chapter 31 commands, encourages and fosters segregation based on race or color in the operation of the public schools of Halifax County in that it interferes with the further desegregation of the schools of Halifax County by limiting the opportunity for Negro public school children residing in Halifax County but outside the Town of Scotland Neck to obtain a desegregated education.

13. Chapter 31 sets up a separate school system which, on grounds of its size and pupil enrollment, has no educational justification and is contrary to general North Carolina policy of consolidating schools and school systems.

14. The enactment and implementation of Chapter 31, for the reasons set out in paragraphs 13 and 14, denies equal protection of the laws to Negro children of school age residing in Halifax County, outside the boundaries of Scotland Neck, in violation of the Fourteenth Amendment to the United States Constitution.

15. Unless restrained by order of this Court the defendants as described in the preceding paragraphs will continue to give force and effect to the provisions of Chapter 31 to the injury of the Negro school-age children residing in the areas formerly within the jurisdiction of the defendant Halifax County Board of Education.

CLAIM TWO

16. Paragraphs 1, 2, 3, 6 and 8 of Claim One of this complaint are realleged in this Claim and incorporated herein by reference as if fully set out.

17. The defendant Board of Education for the 1968-69 school year assigned 5 white teachers and 31 Negro teachers to schools predominantly or exclusively of the opposite race, while assigning 118 white teachers and 286 Negro teachers to schools predominantly or exclusively

of the same race. All of the schools in the Halifax County School District remain racially identifiable by the composition of their faculties.

18. There are educationally sound alternative methods of student assignment available to the defendant Board of Education, such as geographic zoning, or consolidation of schools or grades or both, which promise a speedier and more effective conversion to a unitary, nonracial school system than the freedom-of-choice plan presently in effect. The technical assistance of the Department of Health, Education and Welfare is available to the defendants pursuant to 42 U.S.C. 2000c-2 *et seq.* in the preparation, adoption and implementation of a suitable alternative plan.

19. The defendant Board of Education, in operating and maintaining a public school system within Halifax County, has failed and refused to adopt and implement a desegregation plan which will convert the dual system based on race into a unitary, nonracial school system at the earliest practicable date, and has further failed and refused to eliminate and offset the continuing effects of its past discrimination.

20. The acts, practices, and policies of the defendant described herein deny equal protection of the laws to Negro children of school age residing in the jurisdiction of the defendant Board of Education, in violation of the Fourteenth Amendment to the United States Constitution.

21. Unless restrained by order of this Court, the defendant Halifax County Board of Education will continue to deny equal protection of the laws to Negro children residing in the jurisdiction of this defendant in Halifax County as more fully appears in Claim Two of this complaint.

WHEREFORE, the plaintiff prays that this Court, after a hearing, find the provisions of Chapter 31 in violation of the Equal Protection Clause of the Fourteenth Amendment, and enter an order enjoining the defendants, their officers, agents, employees, and successors, and all persons in active concert or participation with any of them from giving any force or effect to the provisions of Chapter 31, and from doing any thing or

act which may be called for in the provisions of Chapter 31.

The plaintiff further prays that this Court enter an order enjoining the defendant Halifax County Board of Education, its officers, employees, agents and successors, and all persons in active concert or participation with any of them, from failing or refusing to afford equal educational opportunities to all students in the jurisdiction of the Halifax County Board of Education without regard to race, and requiring said persons to take prompt affirmative steps to eliminate the racial identities of the schools of said school system with respect to pupils, faculties, transportation, and new construction, and to assign pupils to schools without regard to their race on the basis of unitary geographic attendance zones, consolidation of grades or schools or both, or some other system of assignment not based on the choice of the pupil or his parent. The plaintiff further prays that the defendants be ordered to seek such technical assistance as may be necessary from the Office of Education of the Department of Health, Education and Welfare for the preparation and submission of a plan to accomplish this result at the earliest practicable date.

Plaintiff further prays that this Court grant such additional relief as the needs of justice may require, together with the costs and disbursements of this action.

/s/ John N. Mitchell
JOHN N. MITCHELL
Attorney General

/s/ Jerris Leonard
JERRIS LEONARD
Assistant Attorney General

ROBERT H. COWEN
United States Attorney

/s/ Frank E. Schwelb
FRANK E. SCHWELB
Attorney
Department of Justice

[Caption Omitted]

CERTIFICATE OF THE ATTORNEY GENERAL

I, JOHN N. MITCHELL, Attorney General of the United States, hereby certify, that the former Attorney General Nicholas deB. Katzenbach received complaints in writing signed by parents of minor children in Halifax County, North Carolina, alleging that said children are being deprived by the Halifax County Board of Education of the equal protection of the laws; that I believe the complaints to be meritorious; that the signers of the complaints are unable, in my judgment, to initiate and maintain appropriate legal proceedings for relief; that after giving notice of the complaints to the said Board of Education I am satisfied that the said Board of Education has had a reasonable time to adjust the conditions alleged in said complaints; and that, in my judgment, the institution of this action will materially further the orderly achievement of desegregation in public education.

This certification is made pursuant to the provisions of Sections 407(a) and (b) of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c-6(a) and (b).

Signed this ____ day of _____, 1969.

/s/ John N. Mitchell
JOHN N. MITCHELL
Attorney General

EXHIBIT A

[State Seal]

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE

I, THAD EURE, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached four (4) sheets to be a true copy of Chapter 31, 1969 Sessions Laws entitled "AN ACT TO IMPROVE AND PROVIDE PUBLIC SCHOOLS OF A HIGHER STANDARD FOR THE RESIDENTS OF SCOTLAND NECK IN HALIFAX COUNTY, TO ESTABLISH THE SCOTLAND NECK CITY ADMINISTRATIVE UNIT, TO PROVIDE FOR THE ADMINISTRATION OF THE PUBLIC SCHOOLS IN SAID ADMINISTRATIVE UNIT, ..." ratified on the 3rd day of March, 1969, by The General Assembly of North Carolina the original of which is now on file and a matter of record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

DONE IN OFFICE at Raleigh, this the 17th day of, March, 1969.

/s/ Thad Eure
Secretary of State

By /s/ Clyde Smith
Deputy Secretary of State

[SEAL]

NORTH CAROLINA
GENERAL ASSEMBLY
1969 SESSION
RATIFIED BILL

CHAPTER 31

HOUSE BILL 22

AN ACT TO IMPROVE AND PROVIDE PUBLIC SCHOOLS OF A HIGHER STANDARD FOR THE RESIDENTS OF SCOTLAND NECK IN HALIFAX COUNTY, TO ESTABLISH THE SCOTLAND NECK CITY ADMINISTRATIVE UNIT, TO PROVIDE FOR THE ADMINISTRATION OF THE PUBLIC SCHOOLS IN SAID ADMINISTRATIVE UNIT, TO LEVY A SPECIAL TAX FOR THE PUBLIC SCHOOLS OF SAID ADMINISTRATIVE UNIT, ALL OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE VOTERS IN A REFERENDUM OR SPECIAL ELECTION.

The General Assembly of North Carolina do enact:

Section 1. There is hereby classified and established a public school administrative unit to be known and designated as the Scotland Neck City Administrative Unit which shall consist of the territory or area lying and being within the boundaries or corporate limits of the Town of Scotland Neck in Halifax County, and the boundaries of said Scotland Neck City Administrative Unit shall be coterminous with the present corporate limits or boundaries of the Town of Scotland Neck. The governing board of said Scotland Neck City Administrative Unit shall be known and designated as the Scotland Neck City Board of Education, and said Scotland Neck City Board of Education (hereinafter referred to as: Board) shall have and exercise all of the powers, duties, privileges and authority granted and applicable to city administrative units and city boards of education as set forth in Chapter 115 of the General Statutes, as amended.

Sec. 2. The Board shall consist of five members appointed by the governing authority of the Town of Scot-

land Neck, and said five members shall hold office until the next regular municipal election of the Town of Scotland Neck to be held in May, 1971. At the regular election for Mayor and Commissioners of the Town of Scotland Neck to be held in May 1971, there shall be elected five members of the Board, and three persons so elected who receive the highest number of votes shall hold office for four years and the two persons elected who receive the next highest number of votes shall hold office for two years, and thereafter all members of the Board so elected, as successors, shall hold office for four years. All members of the Board shall hold their offices until their successors are elected and qualified. All members of the Board shall be eligible to hold public office as required by the Constitution and laws of the State.

Sec. 3. All members of the Board shall be elected by the qualified voters of the Town of Scotland Neck and said election shall be held and conducted by the governing authority of the Town of Scotland Neck and by its election officials and pursuant to the same laws, rules and regulations as are applicable to the election of the municipal officials of the Town of Scotland Neck, and the results shall be certified in the same manner. The election of members of the Board shall be held at the same time and place as applicable to the election of the Mayor and Board of Commissioners of the Town of Scotland Neck and in accordance with the expiration of terms of office of members of the Board. The members of the Board so elected shall be inducted into office on the first Monday following the date of election, and the expense of the election of the members of the Board shall be paid by the Board.

Sec. 4. At the first meeting of the Board appointed as above set forth and of a new Board elected as herein provided, the Board shall organize by electing one of its members as chairman for a period of one year, or until his successor is elected and qualified. The chairman shall preside at the meetings of the Board, and in the event of his absence or sickness, the Board may appoint one of its members as temporary chairman. The Scotland Neck City Superintendent of Schools shall be ex

officio secretary to his Board and shall keep the minutes of the Board but shall have no vote. If there exists a vacancy in the office of Superintendent, then the Board may appoint one of its members to serve temporarily as secretary to the Board. All vacancies in the membership of the Board by death, resignation, removal, change of residence or otherwise shall be filled by appointment by the governing authority of the Town of Scotland Neck of a person to serve for the unexpired term and until the next regular election for members of the Board when a successor shall be elected.

Sec. 5. All public school property, both real and personal, and all buildings, facilities, and equipment used for public school purposes, located within the corporate limits of Scotland Neck and within the boundaries set forth in Section 1 of this Act, and all records, books, moneys budgeted for said facilities, accounts, papers, documents and property of any description, shall become the property of Scotland Neck City Administrative Unit or the Board; all real estate belonging to the public schools located within the above-described boundaries is hereby granted, made over to, and automatically by force of this Act conveyed to the Board from the County public school authorities. The Board of Education of Halifax County is authorized and directed to execute any and all deeds, bills of sale, assignments or other documents that may be necessary to completely vest title to all such property in the Board.

Sec. 6. Subject to the approval of the voters residing within the boundaries set forth in Section 1 of this Act, or within the corporate limits of the Town of Scotland Neck, as hereinafter provided, the governing authority of the Town of Scotland Neck, in addition to all other taxes, is authorized and directed to levy annually a supplemental tax not to exceed Fifty Cents (50¢) on each One Hundred ($100.00) Dollars of the assessed value of the real and personal property taxable in said Town of Scotland Neck. The amount or rate of said tax shall be determined by the Board and said tax shall be collected by the Tax Collector of the Town of Scotland Neck and paid to the Treasurer of the Board. The Board

may use the proceeds of the tax so collected to supplement any object or item in the school budget as fixed by law or to supplement any object or item in the Current Expense Fund or Capital Outlay Fund as fixed by law.

Sec. 7. Within ten days from the date of the ratification of this Act it shall be the duty of the governing authority of the Town of Scotland Neck to call a referendum or special election upon the question of whether or not said Scotland Neck City Administrative Unit and its administrative board shall be established and whether or not the special tax herein provided shall be levied and collected for the purposes herein provided. The notice of the special election shall be published once a week for two successive weeks in some newspaper published in the Town of Scotland Neck or having a general circulation in the Town of Scotland Neck. The notice shall contain a brief statement of the purpose of the special election, the area in which it shall be held, and that a vote by a majority of those voting in favor of this Act will establish the Scotland Neck City Administrative Unit and its Administrative Board as herein set forth, and that an annual tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property, according to each One Hundred Dollars ($100.00) valuation, the rate to be fixed by the Board, will be levied as a supplemental tax in the Town of Scotland Neck, for the purpose of supplementing any lawful public school budgetary item. A new registration of voters shall not be required and in all respects the laws and regulations under which the municipal elections of the Town of Scotland Neck are held shall apply to said special election. The governing authority of the Town of Scotland Neck shall have the authority to enact reasonable rules and regulations for the necessary election books, records and other documents for such special election and to fix the necessary details of said special election.

Sec. 8. In said referendum or special election a ballot in form substantially as follows shall be used: VOTE FOR ONE:

( ) FOR creating and establishing Scotland Neck City Administrative Unit with administrative

Board to operate public schools of said Unit and for supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

( ) AGAINST creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and against supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

If a majority of the qualified voters voting at such referendum or special election vote in favor of establishing Soctland Neck City Administrative Unit, for creation of administrative Board to operate public schools of said Unit and for special supplemental tax as herein set forth, then this Act shall become effective and operative as to all its provisions upon the date said special election results are canvassed and the result judicially determined, otherwise to be null and void. The expense of said referendum or special election shall be paid by the governing authority of the Town of Scotland Neck but if said Unit and Board are established, then said Town of Scotland Neck shall be reimbursed by the Board for said expense as soon as possible.

Sec. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. This Act shall be in full force and effect according to its provisions from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1969.

H. P. TAYLOR, JR.
H. P. TAYLOR, JR.
President of the Senate

EARL W. VAUGHN
EARL W. VAUGHN
Speaker of the House of Representatives.

[Caption Omitted]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR A PRELIMINARY INJUNCTION

TO:

Mr. W. Lunsford Crew
Attorney at Law
Post Office Box 160
Roanoke Rapids, North Carolina 27870
Attorney for the Halifax County Board of Education

Mr. Claude K. Josey
Hux, Josey & Livermon
105 West 11th Street
Scotland Neck, North Carolina 27874
Attorney for the Mayor, Board of Commissioners, Town of Scotland Neck, and the Scotland Neck City Board of Education

The United States, plaintiff, respectfully moves the Court for an Order preliminarily enjoining the defendants, in accordance with the first paragraph of the prayer for relief in the proposed Amended Complaint and, further requiring the defendant Halifax County Board of Education forthwith to seek the assistance of the Office of Education of the Department of Health, Education and Welfare in the preparation and implementation of a plan to completely disestablish the dual system of schools in Halifax County at the earliest practicable date.

This motion is based on the pleadings and papers on file herein and on evidence to be adduced at the hearing. The grounds for relief are more fully set forth in the Complaint. Preliminary relief is needed because the 1969-70 school year is scheduled to commence within a few weeks, and, unless prompt relief is granted, the schools of Halifax County and Scotland Neck will be operated on a racially discriminatory basis, as more fully set forth in the proposed Amended Complaint to the irreparable injury of the United States and the Negro pupils of Halifax County.

PLEASE TAKE NOTICE that the United States will bring this motion on for a hearing at a time and place to be set by the Court.

Respectfully submitted,

ROBERT H. COWEN
United States Attorney

/s/ Frank E. Schwelb
FRANK E. SCHWELB

/s/ Francis H. Kennedy, Jr.
FRANCIS H. KENNEDY, JR.

/s/ Richard W. Bourne
Attorneys
Department of Justice

[Caption Omitted]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR LEAVE TO JOIN AN ADDITIONAL PARTY DEFENDANT AND TO FILE AN AMENDED COMPLAINT

TO:

Mr. W. Lunsford Crew
Attorney at Law
Post Office Box 160
Roanoke Rapids, North Carolina 27870
Attorney for the Halifax County Board of Education

Mr. Claude Kitchen Josey
Hux, Josey & Livermon
105 West 11th Street
Scotland Neck, North Carolina 27874
Attorney for the Mayor, Board of Commissioners, and Town of Scotland Neck, defendants, and for the Scotland Neck City Board of Education

PLEASE TAKE NOTICE that on the 13th day of August, 1969, at 10:00 a.m. or as soon thereafter as counsel may be heard, in the courtroom of the United States District Court for the Eastern District of North Carolina, U. S. Federal Building, Trenton, North Carolina, the United States will move this Court, pursuant to Rules 15(a) and 21, F.R.C.P., for leave to join an additional party defendant and to file an amended complaint, and as grounds therefor, shows the Court that:

1. On July 16, 1969, the complaint was filed in this action, naming as defendants the Halifax County Board of Education, the Mayor and Board of Commissioners of the Town of Scotland Neck, and the Town of Scotland Neck. The complaint alleged, in part here pertinent, that the provisions of an act of the General Assembly of the State of North Carolina, known as Chapter 31, 1969 Sessions Laws, created a new separate school system in Halifax County, North Carolina, known as the Scotland Neck City Administrative Unit, the governing body of which is the Scotland Neck City Board of Education,

and that the act commands racial segregation in the public schools of the Halifax County Board of Education. The complaint prays that Chapter 31 be found unconstitutional, and that the defendants be enjoined from giving any force or effect to its provisions.

2. The Scotland Neck City Board of Education, pursuant to the command of Chapter 31, is preparing to operate schools within its jurisdiction, commencing with the fall term of school in September 1969.

3. In the amended complaint (a) paragraphs 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are the same or with minor changes in wording, substantially the same as paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, respectively, of the original complaint; (b) paragraphs 6, 11 and 12 are new; and (c) the paragraphs of the original complaint numbered 7 and 10 have been omitted. The relief prayed for in both the original complaint and the amended complaint is the same.

Plaintiff further prays for such additional relief as the interests of justice may require and for the costs and disbursements of this action.

/s/ Frank E. Schwelb
FRANK E. SCHWELB

/s/ Francis H. Kennedy, Jr.
FRANCIS H. KENNEDY, JR.

/s/ Richard W. Bourne
RICHARD W. BOURNE
Attorneys
Department of Justice

[Caption Omitted]

RESPONSE TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION, MOTION FOR LEAVE TO JOIN AN ADDITIONAL PARTY DEFENDANT, AND MOTION TO FILE AN AMENDED COMPLAINT

Now come the defendants, Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, J. I. Walston, as members of the Board of Commissioners of the Town of Scotland Neck; and the Town of Scotland Neck, a public body corporate, by and through their attorney, C. Kitchin Josey, and respectfully show unto the Court:

1.

That the plaintiff, the United States of America, has heretofore filed a motion in this cause for a preliminary injunction and a motion for leave to file an amended complaint and to join an additional party, to which motions this response is directed.

2.

The date of August 25, 1969, has been tentatively set for a hearing by the Court of the above motions of the plaintiff.

3.

These responding defendants are not sufficiently informed and do not have sufficient information concerning the operation of either the Halifax County Board of Education or the Scotland Neck City Board of Education and have no connection whatsoever with the operation of these schools and education of the children involved to be able to adequately present evidence and argument against the plaintiff's request for a preliminary injunction, which information is exclusively in the hands of the Scotland Neck City Board of Education, which is not at this time a party nor will it be a party at the time of the hearing on August 25, 1969.

4.

Although as stated above these responding defendants do not have any information regarding certain of the averments contained in plaintiff's complaint in regards to the past, present or future operation of the Scotland Neck City School Administrative Unit or the Halifax County School Admniistrative Unit, it is clear from the record that:

(A) The plaintiff, the United States of America, although it well knew that Chapter 31 of the 1969 Session Laws of North Carolina creating the Scotland Neck City School Administrative Unit was ratified on the 3rd day of March, 1969, and that the referendum called for therein was held and a favorable vote given on April 8, 1969, and that the members of the Board of Education of Scotland Neck were in fact appointed on April 10, 1969, and were sworn into office on April 16, 1969, said plaintiff waited until June 16, 1969, some two months after the appointment of the Scotland Neck City Board of Education, before filing suit to have this cause determined.

(B) The original complaint filed on June 16, 1969, failed to name the Scotland Neck City School Board of Education as a party defendant, which the plaintiff knew at the time of said filing was in fact operating the schools of Scotland Neck under the terms of Chapter 31 of the 1969 Session Laws of North Carolina, but instead named these responding defendants as parties, none of whom have any responsibility whatsoever for the operation of said school.

(C) Although the United States of America, the plaintiff, was under the law and under the rules of civil procedure for the District Courts of the United States and the Eastern District of North Carolina entitled to request of the Court a preliminary injunction simultaneously with filing its complaint on June 16, 1969, and have a determination of such preliminary injunction or restraining order made immediately and certainly by the end of the month of June, 1969, the United States of America for reasons known only unto itself delayed the

request for a preliminary injunction or restraining order for such a late period of time that a determination of this matter w ill not be made until August 25, 1969, approximately two days before the opening of the 1969-1970 school year.

5.

These responding defendants oppose the granting of the plaintiff's request for leave to file an amended complaint in that said amended complaint continues to include these respondents as party defendants when as set forth in these respondents' answer heretofore filed, which answer is asked to be taken as a part of this response to plaintiff's motions, it clearly appears that said proposed amended complaint should not include these defendants in that they have no responsibility or obligations toward the operation or maintenance of the Scotland Neck City School Administrative Unit or the Halifax County School Administrative Unit and that these various causes of action as averred by the plaintiff, can be prosecuted to a complete conclusion without the presence of these defendants as parties thereto and that the retention of the defendants, Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, Frank P. Shields and J. I. Walston, as members of the Board of Commissioners of the Town of Scotland Neck; and the Town of Scotland Neck, a public body corporate, as parties to this action will be superfluous and cause unnecessary expense and inconvenience to all parties of this action including the United States of America and particularly to the said defendants.

WHEREFORE, these responding defendants respectfully request the Court that the plaintiff's motions not be granted and in any event not be granted until a hearing be held on all of said motions to permit these responding defendants to be heard.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY
Attorney for Defendants:

Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, Frank P. Shields and J. I. Walston, as members of the Board of Commissioners of the Town of Scotland Neck, a public body corporate

[Caption Omitted]

ANSWER

The defendants, Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, Frank P. Shields and J. I. Walston, as members of the Board of Commissioners of the Town of Scotland Neck; and the Town of Scotland Neck, a public body corporate, answering the complaint of the plaintiff says and alleges:

1.

That as to the averments contained in Paragraph One, Claim One, these answering defendants are without knowledge or information sufficient to form a belief as to the truth of these averments and hence deny same.

2.

The averments contained in Paragraphs Two and Three, Claim One, are admitted.

3.

It is denied that Frank P. Shields was at the time of the filing of the complaint or at the time of service of said complaint or at any time subsequent was or is a member of the Board of Commissioners of the Town of Scotland Neck; but all other averments of Paragraph Four, Claim One, are admitted.

4.

The averments contained in Paragraph Five, Claim One, are admitted.

5.

That as to the averments contained in Paragraph Six, Claim One, these answering defendants are without knowledge or information sufficient to form a belief as to the truth of said averments and, therefore, deny same.

6.

That as to the averments contained in Paragraph Seven, Claim One, it is admitted that the defendant Board of Education prior to April 8, 1969, did control and operate one school within the geographical boundaries of the Town of Scotland Neck, said school being predominantly white and known as the Scotland Neck School; all other averments are denied.

7.

The averments contained in Paragraphs Eight and Nine, Claim One, are admitted.

8.

That as to the averments contained in Paragraph Ten, Claim One, these answering defendants are without knowledge or information sufficient to form a belief as to the truth of said averments and, therefore, deny same.

9.

The averments contained in Paragraph Eleven, Claim One, are admitted.

10.

The averments contained in Paragraphs Twelve, Thirteen, Fourteen, and Fifteen, Claim One, are denied.

11.

That as to the averments contained in Paragraphs Sixteen, Seventeen, Eighteen, Nineteen, Twenty and Twenty-One, the entire Claim Two, these answering defendants are without knowledge or information sufficient to form a belief as to the truth of said averments and, therefore, deny same.

FURTHER ANSWERING the complaint of the plaintiff, these answering defendants say that under the terms of Chapter 31 of the 1969 Session Laws of North Carolina as more fully set forth in plaintiff's Exhibit A, the

Board of Commissioners of the Town of Scotland Neck did in fact on the 10th day of April, 1969, appoint five members of the Scotland Neck City Board of Education; namely, Walter T. Anderson, Aubrey Powell, Frank P. Shields, F. Boyd Bailey and Martha H. Holloman; and since that date said School Board has in fact operated the Scotland Neck City School Administrative Unit and these answering defendants have had no duties to perform in connection with said operation and have no control whatsoever over the operation of said School Administrative Unit; that said City School Board is an indispensable and necessary party to this action and these answering defendants are not such necessary or indispensable parties, but are mere stake holders.

WHEREFORE, these answering defendants pray the Court:

(1) That this action be dismissed as to the defendant, Frank P. Shields, as a member of the Board of Commissioners of the Town of Scotland Neck.

(2) That this action be dismissed as to Ferd L. Harrison as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin and J. I. Walston, as members of the Board of Commissioners of the Town of Scotland Neck; and the Town of Scotland Neck, a public body corporate, in that they are not the real party in interest; and the plaintiff has not joined as a party the Scotland Neck City School Board as a defendant, which School Board is an indispensable party defendant.

(3) That this action be dismissed in its entirety for that the plaintiff has attempted to join in one action a claim against the defendant Halifax County Board of Education for violation of the Civil Rights Act of 1964 and a claim against the Town Commissioners of Scotland Neck in which the plaintiff asserts that Chapter 31 of the 1969 Session Laws of North Carolina is in violation of the United States Constitution and requests the Court to enjoin the Town Commissioners from performing their duties under said Session Laws, all of which is a misjoinder of causes and parties.

(4) That if this action is not dismissed as against these answering defendants for the reasons mentioned in one through three above that the Court together with a jury hear all evidence and determine all issues and make a declaration that Chapter 31 of the 1969 Session Laws of North Carolina is not in violation of the Fourteenth Amendment to the United States Constitution and that this action be dismissed.

(5) That the costs and disbursements of this action be taxed against the plaintiff and for such other and further relief as may be just and proper in law and equity.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY
Attorney for Defendants:
Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, Frank P. Shields and J. I. Walston, as members of the Board of Commissioners of the Town of Scotland Neck, a public body corporate

[Caption Omitted]

RESPONSE TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION, MOTION FOR LEAVE TO JOIN AN ADDITIONAL PARTY DEFENDANT, AND MOTION TO FILE AN AMENDED COMPLAINT

Now comes the defendant, Halifax County Board of Education, a body corporate, by and through its attorney, W. Lunsford Crew, and respectfully shows unto the court:

1. That the plaintiff, the United States of America, has heretofore filed a motion in this cause for leave to file an amended complaint and to join an additional party defendant and a motion to have a preliminary injunction granted to which motions this response is directed.

2. A hearing by the court of the above motions of the plaintiff has been set for August 25, 1969.

3. That this responding defendant does not have sufficient knowledge regarding the operations of the Scotland Neck City Board of Education or the Town of Scotland Neck, as said defendant, neither sponsored or encouraged the creation of the Scotland Neck City School Administrative Unit, to enable it to properly present evidence or argument against plaintiff's request for injunctive and other relief sought against said boards.

4. That in further response to plaintiff's motions with respect to this answering defendant, said defendant alleges:

(A) The plaintiff, United States of America did not institute this action until June 16, 1969, though all of the facts and allegations set forth in its complaint were known to said plaintiff since March 3, 1969 and said plaintiff had common knowledge of the opening and closing dates of the Halifax County Public Schools for several months and even years prior to the institution of this action.

(B) The plaintiff, United States of America failed to request a preliminary injunction or restraining order

when its complaint was filed on June 16, 1969, but delayed for such an unreasonable period of time that a hearing date for said motion could not be had until August 25, 1969, the same week that the Halifax County Schools and the Scotland Neck City Schools are scheduled to begin operation for the 1969-70 school year.

(C) That this answering defendant says that it has at all times attempted to comply with the laws of the State of North Carolina and the United States of America; though the problems confronting said defendant are unique in that there are approximately 10,655 students in the county system, 8196 are Negro, 2357 are white and 102 Indian with 322 Negro teachers; 123 white and 2 Indians; that said defendant began integration in Halifax County Schools in 1964 when six Negro students were assigned to and attended the Enfield School; that after passage of the Civil Rights Act in 1964, the schools of Halifax County were operated on a Freedom of Choice Basis for 1965 & 66 under plans prepared by defendant and approved by the United States office of Education and during 1966-67 and 1967-68 under plans prepared by the United States office of Education; that said Freedom of Choice resulted in approximately 350 Negro and Indian pupils attending predominantly white schools and 12 teachers teaching across racial lines; that in the summer of 1968, this defendant submitted a proposal to the Justice Department which would transfer approximately 600 additional students and 20 additional teachers to schools other than their predominant race at the beginning of the 1968-69 school year and proposed further steps for the 1969-70 school year and complete desegregation of the school system not later than the 1970-71 school year which plan was rejected by the United States Department of Justice; that subsequently the Board submitted to the Department of Justice another plan providing for the transfer of seventh and eighth-grades from three all Negro schools (approximately 397 additional students) to predominantly white schools; the transfer of seventh grade from one all Negro school, (approxi-

mately 116 additional students) to a predominantly white school and the transfer of 18 additional Negro teachers from all Negro schools to predominantly white schools and to assign the transferred students and teachers to classes without regard to race or color and to present a plan on or before March 15, 1969 for complete disestablishment of the dual school system and complete compliance with the provisions of the Civil Rights Act at the beginning of the school year 1969-70 which plan was accepted by the Justice Department on August 22, 1968; that on February 8, 1969, the defendant adopted a plan which is attached hereto and labeled defendant, Board of Education's Exhibit A and incorporated herein by reference which plan was submitted to the Justice Department on February 10, 1969; that said plan was rejected by the Department of Justice on March 3, 1969 and the defendant board adopted a resolution to operate its schools on a Freedom of Choice Plan for the school year 1969-70 due to the many unknown factors beyond the control of said defendant Board, which factors included a bill in the General Assembly creating the Scotland Neck School Unit and the Littleton-Lake Gaston School District, and a survey report which included an interim report and long range plans recommended by the Division of School Planning of the North Carolina Department of Public Instruction; that it was impossible and impractical for this defendant to proceed with additional plans until the number of administrative units and the number of students for assignment and the location of the new consolidated schools became known.

That this defendant neither initiated nor encouraged the creation of the Scotland Neck School Unit nor the Littleton-Lake Gaston School Unit, but cannot proceed with intelligence until the future of these units is judicially determined.

(D) The plaintiff, United States of America even if it had had a right and been entitled to the injunctive relief and restraining order, if it had requested the same when the original complaint was filed in this action, which right this answering defendant emphatically denies, it has abdicated such right by waiting until two

days before the opening date of school to request such relief.

5. This responding defendant opposes the granting of the plaintiff's request for a preliminary injunction in that it would be detrimental to the education of all the children enrolled in the Halifax County School System in that it would now be impossible for this defendant to make the necessary changes in two days before the opening of school or during the 1969-70 school year for the transfer of students and teachers from class to class or school to school, would be contrary to the accepted practices of good and efficient teaching.

6. That as set forth in detail above and in this defendant's answer, this defendant has conscientiously and consistently adopted and suggested changes the end result of which would be increased integration in the public schools of Halifax County; that if the plaintiff through its agent, the Justice Department had not refused to accept the tentative and final plans for complete integration of the Halifax County Public School System, total integration would now be an accomplished fact.

7. That until the constitutionality of the Scotland Neck City School Unit and the Littleton-Lake Gaston School Unit has been finally judicially determined, this defendant cannot prepare a feasible plan of desegregation in its schools for the number of schools, administrative units, and pupils will not be finally known until that time; that by the time a judicial determination is made, this defendant will have additional information with respect to the recommended consolidation of its high schools, which recommendation is being vigorously pursued, and can then submit a lawful and intelligent, workable and acceptable plan for the following school year, thus avoiding disruptive transfers and practices during the 1969-70 school year.

8. That the injunctive relief sought by the plaintiff, United States of America if granted would result in irreparable injury of the plaintiff and all of the Negro and white children in the public schools of Halifax County.

WHEREFORE, this responding defendant respectfully requests the court that the plaintiff's motion for injunctive relief not be granted now and not be granted until a hearing is held on all motions and pleadings and all issues raised by said pleadings be heard and finally adjudicated.

/s/ W. Lunsford Crew
W. LUNSFORD CREW
Attorney for Defendant,
Halifax County Board of
Education

[Caption Omitted]

ANSWER

The defendant, Halifax County Board of Education, a body corporate, answering the complaint, alleges and says:

1. That as to the allegations contained in Paragraph 1, Claim One, this answering defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations and hence denies the same.

2. The allegations contained in Paragraphs 2 and 3, Claim One, are admitted.

3. The allegations contained in Paragraph 4, Claim One, are not denied.

4. That the allegations contained in Paragraph 5, Claim One, are admitted.

5. The allegations contained in Paragraph 6, Claim One, are denied.

6. The averments contained in Paragraph 7, Claim One, are denied as the school therein referred to is now operated by the Scotland Neck City Board of Education.

7. The allegations contained in Paragraphs 8 and 9, Claim One, are admitted.

8. That as to the allegations contained in Paragraph 10, Claim One, this answering defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations and therefore denies the same.

9. The allegations contained in Paragraph 11, Claim One, are admitted.

10. The allegations contained in Paragraphs 12, 13, 14 and 15, Claim One, are denied.

11. That as to the allegations contained in Paragraph 16, Claim Two, Paragraphs 1 and 6 incorporated therein are denied; Paragraphs 2 and 8 are admitted and Paragraph 3 is not denied.

12. The allegations contained in Paragraph 17, Claim Two, are admitted.

13. The allegations contained in Paragraphs 18, 19, 20 and 21, Claim Two, are denied.

FURTHER ANSWERING the complaint of the plaintiff, this answering defendant says that it has at all times attempted to comply with the laws of the State of North Carolina and the United States of America; though the problems confronting said defendant are unique in that there are approximately 10,655 students in the county system, 8196 are Negro, 2357 are white and 102 Indian with 322 Negro teachers, 123 white and 2 Indians; that said defendant began integration in Halifax County Schools in 1964 when Six Negro students were assigned to and attended the Enfield School; that after passage of the Civil Rights Act in 1964, the schools of Halifax County were operated on a Freedom of Choice Basis for 1965 & 66 under plans prepared by defendant and approved by the United States office of Education and during 1966-67 and 1967-68 under plans prepared by the United States office of Education; that said Freedom of Choice resulted in approximately 350 Negro and Indian pupils attending predominantly white schools and 12 teachers teaching across racial lines; that in the summer of 1968, this defendant submitted a proposal to the Justice Department which would transfer approximately 600 additional students and 20 additional teachers to schools other than their predominant race at the beginning of the 1968-69 school year and proposed further steps for the 1969-70 school year and complete desegregation of the school system not later than the 1970-71 school year which plan was rejected by the United States Department of Justice; that subsequently the Board submitted to the Department of Justice another plan providing for the transfer of seventh and eighth grades from three all Negro schools (approximately 397 additional students) to predominantly white schools; the transfer of seventh grade from one all Negro school, (approximately 116 additional students) to a predominantly white school and the transfer of 18 additional Negro teachers from all Negro schools to predominantly white schools and to assign the transferred students and teachers to classes without regard to race or color and to present a plan on or before March 15, 1969 for complete disestablishment of the dual school system and complete

compliance with the provisions of the Civil Rights Act at the beginning of the school year 1969-70 which plan was accepted by the Justice Department on August 22, 1968; that on February 8, 1969, the defendant adopted a plan which is attached hereto and labeled defendant, Board of Education's Exhibit A and incorporated herein by reference which plan was submitted to the Justice Department on February 10, 1969; that said plan was rejected by the Department of Justice on March 3, 1969 and the defendant board adopted a resolution to operate its schools on a Freedom of Choice Plan for the school year 1969-70 due to the many unknown factors beyond the control of said defendant Board, which factors included a bill in the General Assembly creating the Scotland Neck School Unit and the Littleton-Lake Gaston School District, and a survey report which included an interim report and long range plans recommended by the Division of School Planning of the North Carolina Department of Public Instruction; that it was impossible and impractical for this defendant to proceed with additional plans until the number of administrative units and the number of students for assignment and the location of the new consolidated schools became known.

That this defendant neither initiated nor encouraged the creation of the Scotland Neck School Unit nor the Littleton-Lake Gaston School Unit, but cannot proceed with intelligence until the future of these units is judicially determined.

WHEREFORE, this answering defendant prays the court:

1. That this action be dismissed as to this defendant as the defendant was not a party to the creation of the Scotland Neck School Unit.

2. That this action be dismissed in its entirety for the plaintiff has attempted to join in one action a claim against the Town Commissioners of Scotland Neck in which it is alleged that Chapter 31 of the 1969 Session Laws of the State of North Carolina is in violation of the United States and a claim against this defendant, Halifax County Board of Education for violation of the

Civil Rights Act of 1964 which is a misjoinder of causes and parties.

3. That this defendant be allowed a minimum of ninety days after the final judicial determination of the legality of the Scotland Neck School Unit and the Littleton-Lake Gaston School Unit in which to submit tentative plans to the proper authority for implementation of the integration of the schools within its system pursuant to law.

4. That if this action is not dismissed as against this answering defendant for the reasons above set forth that the court together with a jury hear all evidence and determine all issues and make the necessary declaration and finding raised in this action.

5. That the cost and disbursement of this action be taxed against the plaintiff and for such other and further relief as may be just and proper.

/s/ W. Lunsford Crew
W. LUNSFORD CREW
Attorney for Defendant,
Halifax County Board of
Education

[Caption Omitted]

NOTICE OF HEARING

TO COUNSEL OF RECORD:

TAKE NOTICE that the above-entitled cases have been set for hearing in the United States District Courtroom, Post Office Building, Raleigh, North Carolina on Thursday, August 21, 1969, at 10:00 A.M., before Butler and Larkins, United States District Judges. The cases will be consolidated for hearing and heard upon the following issues: (1) The constitutionality of certain local acts of the 1969 North Carolina General Assembly described in the pleadings; and (2) preliminary and permanent injunction restraining the defendants from enforcing and applying state statutes, and (3) any other motions.

Counsel are directed to submit a copy of brief or memorandum in support of their respective contentions to each of the district judges on or before noon on Wednesday, August 20, 1969.

/s/ Algernon L. Butler
Chief Judge
United States District Court

August 14, 1969

[Caption Omitted]

ORDER

The plaintiff having filed its motion for leave to add the Scotland Neck City Board of Education as an additional party defendant and for leave to file an amended complaint, and it appearing to the court that the motion should be granted.

IT IS ORDERED, ADJUDGED AND DECREED that the clerk shall forthwith file the amended complaint in this action. The United States Marshal shall forthwith serve a copy of the complaint on the defendants named in the amended complaint, and pursuant to Rule 15(a), Federal Rules of Civil Procedure, the defendants shall file their answer or other pleading with respect to the amended complaint prior to noon August 20th 1969.

ORDERED this 15 day of August, 1969.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

[Caption Omitted]

AMENDED COMPLAINT

CLAIM ONE

The plaintiff, UNITED STATES OF AMERICA, alleges:

1. This action is instituted by the United States of America, pursuant to Sections 407(a) and (b) of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c-6(a) and (b). The statutory requirements for bringing such an action under 42 U.S.C. §§ 2000c-6(a) and (b) have been met as follows:

(a) The former Attorney General, Nicholas deB. Katzenbach, received complaints in writing signed by parents to the effect that their minor children, as members of a class of persons similarly situated, are being deprived by the defendant Halifax County Board of Education of the equal protection of the laws;

(b) The Attorney General has certified that he believes these complaints to be meritorious;

(c) Attached to the original complaint filed herein is the Attorney General's certification that:

(1) the signers of the complaints are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of this action will materially further the orderly achievement of desegregation in public education;

(2) after giving notice of the complaints to the defendant Halifax County Board of Education, he is satisfied that the Board has had a reasonable time to adjust the conditions alleged in such complaint.

2. This Court has jurisdiction of this action under 28 U.S.C. § 1345 and 42 U.S.C. § 2000c-6.

3. The defendant Halifax County Board of Education (hereinafter the Halifax County Board) is a body corporate, organized and existing under the laws of the State of North Carolina. It has the duty under North Carolina law to operate a public school system in Halifax County, North Carolina, which is located in the Eastern District of North Carolina.

4. This action is brought against the defendant Ferd L. Harrison in his official capacity as Mayor of the Town of Scotland Neck, and against the defendants J. A. Andrews, F. G. Shearin, D. E. Josey, Jr., and J. I. Walston, in their official capacities as members of the Board of Commissioners of the said Town of Scotland Neck. The Mayor and the Board of Commissioners constitute the governing authority of the Town of Scotland Neck. In their official capacities these defendants are charged under North Carolina law with conducting the operations of the municipal government of the Town of Scotland Neck, and in particular, are charged under Chapter 31, 1969 Sessions Laws, with appointing the initial members of the Scotland Neck City Board of Education. These defendants reside in the Town of Scotland Neck, within the Eastern District of North Carolina.

5. The Town of Scotland Neck is a public body corporate, organized and existing under the laws of the State of North Carolina and located in Halifax County within the Eastern District of North Carolina. This defendant is charged under North Carolina law with providing municipal government within its jurisdiction, and in particular, with levying and collecting taxes within its jurisdiction, including the taxes authorized by Chapter 31, 1969 Sessions Laws to be paid over to the Scotland Neck City Administrative Unit.

6. The Scotland Neck City Board of Education (hereinafter the Scotland Neck Board) is a body corporate, organized and existing under the law of the State of North Carolina known as Chapter 31. It has the duty under North Carolina law to operate a public school system in the Town of Scotland Neck, in Halifax County, North Carolina, which is located in the Eastern District of North Carolina.

7. Prior to the 1965-66 school year the defendant Halifax County Board operated a completely segregated school system based on race. Since that time this defendant has operated its school system pursuant to a freedom-of-choice plan of desegregation, modified for the year 1968-69 by the assignment of some additional Negroes to desegregated schools. During the 1968-69 school year this defendant operated a total of seventeen schools, four of which have historically been maintained for white persons, and thirteen of which have historically been maintained for Negroes. During the school year 1968-69 all of the approximately 2357 white pupils in the district remained in traditionally white schools and 91% of the approximately 8195 Negro pupils remained in all-Negro schools.

8. The defendant Halifax County Board proposes to assign students to schools for the 1969-70 school year pursuant to its freedom-of-choice plan of desegregation.

9. On or about March 3, 1969, there was enacted into law a statute known as "Chapter 31, 1969 Sessions Laws," (hereafter referred to as Chapter 31) a copy of which is attached herewith as Exhibit A. Chapter 31 provides, in pertinent part, for the creation of a new public school administrative unit to be known as the Scotland Neck City Administrative Unit. The creation of this special school system was made subject to majority approval at a special election held only for the voters of Scotland Neck. Chapter 31 further provides that upon the approval of a majority of the voters and the creation of the Scotland Neck City Administrative Unit, all school properties located within the new school system and all monies allocated for schools within the new school system, shall become the property of the new system, and legal title to such school properties shall be transferred by the Halifax County Board to the new Scotland Neck City Administrative Unit. After approval of the new school system, the Mayor and Board of Commissioners of Scotland Neck are required to appoint the initial members of the Scotland Neck City Board of Education, which is to administer the new school system.

10. On April 8, 1969 a special election was held in Scotland Neck pursuant to the provisions of Chapter 31, in which a majority of the votes cast were in behalf of approving the creation of the Scotland Neck City Administrative Unit. The provisions of Chapter 31 became effective and operative on or about April 8, 1969.

11. Pursuant to the provisions of Chapter 31, the Halifax County Board has relinquished to the Scotland Neck Board control and operation of school facilities located in Scotland Neck, which the Halifax County Board controlled and operated during the 1968-69 school year. But for the operation of Chapter 31, the Halifax County Board would control and operate these school facilities for the 1969-70 school year.

12. The Scotland Neck Board has hired a Superintendent of Schools, and is preparing to open its schools for the semester beginning in the fall of 1969. The Scotland Neck Board proposes to assign, or has assigned, for the 1969-70 school year, all of the 399 white pupils and the 298 Negro pupils residing within the Town of Scotland Neck, to schools under its jurisdiction. During the 1968-69 school year these pupils attended schools operated by the Halifax County Board.

13. The enactment and implementation of Chapter 31 commands, encourages and fosters segregation based on race or color in the operation of the public schools of Halifax County in that it interferes with the further desegregation of the schools of the Halifax County Board by limiting the opportunity for Negro public school children residing in the jurisdiction of the Halifax County Board but outside the Town of Scotland Neck to obtain a desegregated education.

14. Chapter 31 sets up a separate school system which, on grounds of its size and pupil enrollment, has no educational justification and is contrary to general North Carolina policy of consolidating schools and school systems.

15. The enactment and implementation of Chapter 31, for the reasons set out in paragraphs 13 and 14, denies equal protection of the laws to Negro children of school age residing in the jurisdiction of the Halifax County

Board, outside the boundaries of Scotland Neck, in violation of the Fourteenth Amendment to the United States Constitution.

16. Unless restrained by order of this Court the defendants as described in the preceding paragraphs will continue to give force and effect to the provisions of Chapter 31 to the injury of the Negro school-age children residing in the areas formerly within the jurisdiction of the defendant Halifax County Board.

CLAIM TWO

17. Paragraphs 1, 2, 3, 7, and 8 of Claim One of this complaint are realleged in this Claim and incorporated herein by reference as if fully set out.

18. The defendant Halifax County Board for the 1968-69 school year assigned 5 white teachers and 31 Negro teachers to schools where the faculties and student bodies were predominantly or exclusively of the opposite race, while assigning 118 white teachers and 386 Negro teachers to schools where the faculties and student bodies were predominantly or exclusively of the same race. All of the schools under the Halifax County Board remain racially identifiable by the composition of their faculties.

19. There are educationally sound alternative methods of student assignment available to the defendant Halifax County Board, such as geographic zoning, or consolidation of schools or grades or both, which promise a speedier and more effective conversion to a unitary, nonracial school system than the freedom-of-choice plan presently in effect. The technical assistance of the Department of Health, Education and Welfare is available to the defendants pursuant to 47 U.S.C. 2000c-2 *et seq.* in the preparation, adoption and implementation of a suitable alternative plan.

20. The defendant Halifax County Board in operating and maintaining a public school system within Halifax County has failed and refused to adopt and implement a desegregation plan which will convert the dual system based on race into a unitary, nonracial school system at the earliest practicable date, and has further failed and

refused to eliminate and offset the continuing effects of its past discrimination.

21. The acts, practices, and policies of the defendant described herein deny equal protection of the laws to Negro children of school age residing in the jurisdiction of the defendant Halifax County Board, in violation of the Fourteenth Amendment to the United States Constitution.

22. Unless restrained by order of this Court, the defendant Halifax County Board will continue to deny equal protection of the laws to Negro children residing in the jurisdiction of this defendant in Halifax County as more fully appears in Claim Two of this complaint.

WHEREFORE, the plaintiff prays that this Court, after a hearing, find the provisions of Chapter 31 in violation of the Equal Protection Clause of the Fourteenth Amendment, declare the said Chapter 31 null and void, and enter an order enjoining the defendants, their officers, agents, employees, and successors, and all persons in active concert or participation with any of them from giving any force or effect to the provisions of Chapter 31, from continuing to give any force or effect to any action heretofore taken pursuant thereto, and from doing any thing or act which may be called for in the provisions of Chapter 31.

The plaintiff further prays that this Court enter an order enjoining the defendant Halifax County Board of Education, its officers, employees, agents and successors, and all persons in active concert or participation with any of them, from failing or refusing to afford equal educational opportunities to all students in the jurisdiction of the Halifax County Board of Education without regard to race, and requiring said persons to take prompt affirmative steps to eliminate the racial identities of the schools of said school system with respect to pupils, faculties, transportation, and new construction, and to assign pupils to schools without regard to their race on the basis of unitary geographic attendance zones, consolidation of grades or schools or both, or some other system of assignment not based on the choice of the pupil or his

parent. The plaintiff further prays that the defendants be ordered to seek such technical assistance as may be necessary from the Office of Education of the Department of Health, Education and Welfare for the preparation and submission of a plan to accomplish this result at the earliest practicable date.

Plaintiff further prays that this Court grant such additional relief as the needs of justice may require, together with the costs and disbursements of this action.

JOHN N. MITCHELL
Attorney General

JERRIS LEONARD
Assistant Attorney General

ROBERT H. COWEN
United States Attorney

FRANK E. SCHWELB
Attorney
Department of Justice

[Caption Omitted]

ANSWER

The defendants, Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, and J. I. Walston, and D. E. Josey, Jr., as members of the Board of Commissioners of the Town of Scotland Neck; the Town of Scotland Neck, a public body corporate, answering the amended complaint, allege and say:

1. That as to the allegations contained in Paragraph 1, Claim One, these answering defendants are not sufficiently informed concerning the averments contained therein from which to form a belief and hence deny same.

2. That the allegations contained in Paragraph 2 of Claim One are admitted.

3. That the allegations contained in Paragraph 3 of Claim One are admitted.

4. That the allegations contained in Paragraph 4 of Claim One are admitted.

5. That the allegations contained in Paragraph 5 of Claim One are admitted.

6. That the allegations contained in Paragraph 6 of Claim One are admitted.

7. That as to the allegations contained in Paragraph 7, Claim One, these answering defendants are not sufficiently informed concerning the averments contained therein from which to form a belief and hence deny same.

8. That as to the allegations contained in Paragraph 8, Claim One, these answering defendants are not sufficiently informed concerning the averments contained therein from which to form a belief and hence deny same.

9. That the allegations contained in Paragraph 9, Claim One, are admitted.

10. That the allegations contained in Paragraph 10 of Claim One are admitted.

11. That the allegations contained in Paragraph 11 of Claim One are admitted.

12. That as to the allegations contained in Paragraph 12, Claim One, these answering defendants are not suffi-

ciently informed concerning the averments contained therein from which to form a belief and hence deny same.

13. The allegations and averments contained in Paragraph 13, Claim One are denied.

14. The allegations and averments contained in Paragraph 14, Claim One are denied.

15. The allegations and averments contained in Paragraph 15, Claim One are denied.

16. The allegations and averments contained in Paragraph 16, Claim One are denied.

17. That as to the allegations contained in Paragraph 17 of Claim Two which realleges Paragraphs 1, 2, 3, 7 and 8 of Claim One these defendants answer said paragraph in the same manner as above.

18. That as to the allegations contained in Paragraph 18, Claim Two, these answering defendants are not sufficiently informed concerning the averments contained therein from which to form a belief an dhence deny same.

19. That as to the allegations contained in Paragraph 19, Claim Two, these answering defendants are not sufficiently informed concerning the averments contained therein from which to form a belief and hence deny same.

20. That as to the allegations contained in Paragraph 20, Claim Two, these answering defendants are not sufficiently informed concerning the averments contained therein from which to form a belief and hence deny same.

21. The allegations and averments contained in Paragraph 21, Claim Two are denied.

22. The allegations and averments contained in Paragraph 22, Claim Two are denied.

WHEREFORE, these answering defendants pray the Court that the relief as prayed for by the plaintiff be denied and that the plaintiff be taxed with the costs and disbursements of this action.

DEFENDANTS further pray that this action be dismissed as against them as set forth in its motion heretofore made.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY
Attorney for Defendants:
Ferd L. Harrison, as Mayor of the Town of Scotland Neck; J. A. Andrews, F. G. Shearin, J. I. Walston, and D. E. Josey, Jr., as members of the Board of Commissioners of the Town of Scotland Neck; and the Town of Scotland Neck, a public body corporate

[Caption Omitted]

ANSWER

The defendant, The Scotland Neck City Board of Education, a body corporate, answering the amended complaint, alleges and says:

1. That as to the allegations contained in Paragraph 1, Claim One, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

2. That the allegations contained in Paragraph 2 of Claim One are admitted.

3. That the allegations contained in Paragraph 3 of Claim One are admitted.

4. That the allegations contained in Paragraph 4 of Claim One are admitted.

5. That the allegations contained in Paragraph 5 of Claim One are admitted.

6. That the allegations contained in Paragraph 6 of Claim One are admitted.

7. That as to the allegations contained in Paragraph 7, Claim One, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

8. That the allegations contained in Paragraph 8 of Claim One are admitted.

9. That the allegations contained in Paragraph 9 of Claim One are admitted.

10. That the allegations contained in Paragraph 10 of Claim One are admitted.

11. That the allegations contained in Paragraph 11 of Claim One are admitted.

12. That as to the allegations contained in Paragraph 12 of Claim One it is admitted that the Scotland Neck Board has hired a Superintendent of Schools and is prepared to open its schools for students on August 28, 1969, and it is further admitted that the vast majority of the students who will attend the schools of the Scotland Neck City Administrative Unit during the 1969-70 school year

attended schools operated by the Halifax County Board during the previous year; all other allegations contained in Paragraph 12 are denied.

13. The allegations and averments contained in Paragraph 13, Claim One are denied.

14. The allegations and averments contained in Paragraph 14, Claim One are denied.

15. The allegations and averments contained in Paragraph 15, Claim One are denied.

16. It is admitted that unless restrained by order of the Court this answering defendant will continue to give full force and effect to the provisions of Chapter 31; all other allegations contained in Paragraph 16 are denied.

17. That as to the allegations contained in Paragraph 17 of Claim Two which realleges Paragraphs 1, 2, 3, 7 and 8 of Claim One this defendant answers said paragraph in the same manner as above.

18. That as to the allegations contained in Paragraph 18, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

19. That as to the allegations contained in Paragraph 19, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

20. That as to the allegations contained in Paragraph 20, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

21. The allegations and averments contained in Paragraph 21, Claim Two are denied.

22. The allegations and averments contained in Paragraph 22, Claim Two are denied.

FURTHER ANSWERING PLAINTIFF's amended complaint this answering defendant says and alleges:

1. That summons was served on this defendant and this defendant was made a party to this action on Satur-

day, August 16, 1969; which summons stated "You are hereby summoned and required to serve upon Robert H. Cowen, United States Attorney, plaintiff's attorney, whose address Post Office Building, Raleigh, N. C. an answer to the complaint which is herewith served upon you, no later than 12:00 noon, August 20, 1969. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint."; which under Rule 6 of the Federal Rules of Civil Procedure gave this defendant only two and one-half days within which to file this answer.

2. That this answering defendant has not had sufficient time to engage and confer with its attorney or to prepare this answer and set forth the defenses which it might have to plaintiff's amended complaint and certainly has not had sufficient time to adequately prepare its defense for a trial of this action on its merits.

3. That although this defendant has not been officially or legally notified of any such trial directly or through its counsel it is in fact aware of the existence of an order which Honorable Algernon L. Butler apparently entered prior to this answering defendant becoming a party to this action setting the trial, at least against all other defendants, for ten a.m. Thursday, August 21, 1969.

4. That in the event that this answering defendant is required to be present at said trial and present such defense as it has, it will be totally unable to properly present its defenses in that it has had a total of three days within which to file an answer and prepare and present its defenses.

WHEREFORE, this answering defendant prays the Court that it be given additional time to properly prepare and file its answer up to and including the 5th day of September, 1969, as permitted by Rule 12A of the Federal Rules of Civil Procedure.

This answering defendant further prays the Court that the trial of this action on its merits not be scheduled until such time as this defendant can through the

discovery procedures permitted by the Federal Rules of Civil Procedure adequately prepare for trial.

This answering defendant further prays the Court that in any event this action be dismissed and the plaintiff denied each and every prayer set forth in its amended complaint and that the plaintiff be taxed with the costs and disbursements of this action.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY
Attorney for Defendant:
The Scotland Neck City Board of Education, a body corporate

* * * *

[5] JUDGE BUTLER: Pursuant to notice to counsel, this Court with two District Judges for the Eastern District of North Carolina presiding, has been convened for hearing of the cases consolidated for that purpose, the case of Alvin Turner and others, Plaintiffs, against the Warren County Board of Education, Defendants, and the case of United States of America against the Halifax County Board of Education and others, Defendants.

The Court will request counsel representing the several parties to present their respective evidence and a concise statement of facts as they view it, and then counsel for the several defendants to present their evidence with any statements of relevant facts as they respectively view them. After all the evidence is in, then the Court will hear arguments of counsel as to the applicable law.

The Court will recognize first the counsel for the United States of America in the case of United States of America against the Halifax County Board of Education and others.

* * * *

[22] MR. KENNEDY: Thank you, your Honor.

The evidence for the Government in The United States of America v. The Halifax County Board of Education, et al. will be submitted as follows:

With the Court's permission we would like to offer into evidence if and when available, or when available, the depositions of the following named witnesses:

Dr. A. Craig Phillips, State Superintendent of Public Instruction, State of North Carolina;

MR. W. Henry Overman, Superintendent of the Halifax County Board of Education;

Mr. Franklin P. Bailey, Superintendent of the [23] Scotland Neck City School System;

Mr. Frank P. Shields, Chairman of the Scotland Neck City Board of Education;

Mr. Henry L. Harrison, a citizen of Scotland Neck, former member of the Halifax County Board of Education;

Mr. Macon L. Moore, Chairman of the Halifax County Board of Education;

Mr. Aubry Powell, member of the Scotland Neck City Board of Education; and

Mr. Ferd Harrison, Mayor of the Town of Scotland Neck.

In addition, at this time we would like to offer into evidence the Affidavit of Dr. J. L. Pearce, Director of the Division of School Planning, North Carolina Department of Public Instruction.

* * * *

[24] MR. KENNEDY: I would like to present a bound volume of exhibits, your Honor: Plaintiffs' Exhibits Nos. 12, 13, 14, 15, 16, and 17. There is a typed index at the beginning of the document listing not only the names and identities of the Exhibits 12 through 17, but also the Exhibits Nos. 1 through 10, copies of which have been attached as exhibits to the various depositions. I make reference to them to keep the numerical sequence.

JUDGE BUTLER: You are offering, as I understand it, Government Exhibits 12 through 17, inclusive, contained in the bound volume of exhibits?

MR. KENNEDY: Yes, sir. But Exhibits Nos. 1 through 10 are physically located attached to various depositions, so that they can be located with the depositions at which they were introduced.

JUDGE BUTLER: Then do I understand that Exhibits 1 through 10 have in effect been offered in evidence as attachments to various depositions?

MR. KENNEDY: Precisely.

* * * *

[26] I would like to have the clerk mark as Plaintiffs' Exhibit No. 11 a document known as the Report of the Governor's Study Commission on the Public School System of North Carolina.

The last Government Exhibit is No. 18 which is a bound volume, your Honor. It contains thirty-one newspaper articles in the original, and I would offer them merely for the proposition that these articles in fact appeared in the newspapers designated and on the dates

indicated. We do not offer these exhibits for the truth of the statements contained in the various newspaper articles. I have already furnished Mr. Josey and Mr. Crew copies, and I would ask—I have asked them if they could see fit to agree that they are authentic copies of the newspaper articles appearing on the dates and from the papers indicated.

* * * *

[44] Q State your name and occupation, please, sir.

A W. Henry Overman, Superintendent of the Halifax County Schools.

Q How long have you been superintendent?

A Of Halifax County schools?

Q Yes, sir.

A Twenty-two years.

Q Are you generally familiar with the records that are kept under your supervision?

A Yes.

Q Would you please turn to the original copy of Plaintiffs' Exhibit No. 12, and can you identify that for us, please?

A Yes.

Q Will you please tell the Court what that is, and if that is a true and accurate copy of the original?

A Yes. This is a statement concerning students who reside in other school systems who attend school in the Halifax County school system, and it is accurate.

Q Does it also include a copy of a form submitted to HEW in September 1967?

A Yes.

Q And are the figures therein accurate as of that date?

A Yes.

[45] Q Will you please turn to Plaintiffs' Exhibit No. 13. Can you identify that?

A Yes.

Q Will you please tell the Court what that is?

A That's their report to the Department of HEW on the school attendance in 1968, compiled October 4th.

Q Are there any corrections you would like to make at this time to the first page of that exhibit?

A Yes. There was an inaccuracy in the totals at the very bottom column. Instead of 110 in Column 1, it should be 455. In Column 3 it should be 326.

BY JUDGE BUTLER:

Q 326. Is that the present figure or the corrected figure?

A That is the corrected figure.

Q What is the present figure?

A The present figure in Column 1, vertical column, 8. Column 3, 4. And Column 6—

Q Just a minute. I'm not understanding that.

BY MR. KENNEDY:

Q Mr. Overman, let me see if we can get it. Is Column 1 headed with the words "Total Minority and Non-Minority Group, Fulltime Professional Instruction Staff"?

A That's correct.

Q Does the present number on the form read 110?

[46] A That's the last horizontal column.

Q Should that in fact read 455?

A That's correct.

Q And under Column 3, which is the total number of the minority group, Negro fulltime professional staff, does that read 76?

A It does.

Q And should it read 326?

A Correct.

Q And under Column 6, Total Minority Group, Fulltime Professional Staff, it presently reads 76?

A Yes.

Q And should it read 326?

A 328.

Q 328. Thank you. Please turn to Plaintiffs' Exhibit No. 14.

BY JUDGE BUTLER:

Q Now, just a moment. Exhibit 13 is your report to HEW of the school attendance for the year 1968-69; is that correct?

A Yes, sir, '68-69, the beginning of the school term.

Q With the correction that you have indicated, is it otherwise correct?

A Yes.

[47] Q And is it authentic?

A Yes.

BY MR. KENNEDY:

Q Can you identify Plaintiffs' Exhibit No. 14?

A Yes.

Q What is that, please?

A This is the form, Summary of Proposed Construction Project, that was presented to the State Department of Public Instruction, primarily for the use of State building bond funds.

Q Is that a true and authentic copy, sir?

A Yes.

Q Would you please turn to Plaintiffs' Exhibit No. 17. Can you identify that, please?

A I can identify it as to title and as to what it consists of, but for the figures I cannot determine because this is of the Weldon city administrative unit.

Q I'm sorry, sir. No. 17, the very last page in the folder.

A Oh, yes, excuse me. I was reading 16. Yes, this is a press release to the county newspapers, and it is correct.

* * * *

[77] MR. JOSEPH W. TALLEY, called as a witness by counsel for the Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q Would you give your name to the Court, please?

A J. W. Talley.

Q Mr. Talley, what is your occupation?

A Superintendent of Schools, Roanoke Rapids.

Q Is that in Halifax County?
A It is.
Q Mr. Talley, how long have you been Superintendent of Schools of Roanoke Rapids?
A Since 1958.
Q Is that a city administrative unit?
A Yes.
[78] Q What was your position prior to the time you became Superintendent of Schools in the Roanoke Rapids city administrative unit?
A I was principal of the high school in the same unit.
Q How long were you principal of the high school in that unit?
A About 12 or 13 years.
Q And prior to that what was your position?
A I was a teacher in that same unit.
Q And how long were you a teacher in that unit?
A Approximately 3 years.
Q You were also a coach?
A Yes.
Q Now, had you taught school or had been a professional educator prior to that time?
A No. All of my experience has been in the same unit.
Q And where did you attend college, sir?
A Wake Forest and Duke University.
Q What degree, if any, did you get from either of those institutions?
A A Bachelor's at Wake Forest and a Master's at Duke.
Q And what high school? Did you go to public schools?
[79] A Yes, I did.
Q What public school did you go to?
A Mebane High School in Alamance County.
MR. JOSEY: If your Honor please, I would like to tender this witness at this time as an expert in the field of public education.
MR. KENNEDY: We don't have any objection to his qualifications as a superintendent, but as to whether he is an expert or not I have some reservations.

JUDGE BUTLER: You say in the field of public education?

MR. JOSEY: Yes, sir.

JUDGE BUTLER: And not as a school administrator.

MR. JOSEY: In the field of public education.

MR. KENNEDY: I don't know what expertise the gentleman may have by way of study or writing, this sort of thing, and I would like to lodge an objection for the record.

JUDGE BUTLER: All right, we'll hear from him.

BY MR. JOSEY:

Q How many students are in your unit, approximately, Mr. Talley?

[80] A Approximately 2800.

Q And how many schools are there in your unit?

A There are 6, five elementary and one high school.

Q Now, Mr. Talley, were you also on a committee of the Governor's Study Commission that in fact produced one of the plaintiffs' exhibits, Plaintiff-Government's Exhibit No. 11, the Report of the Governor's Study Commission on the public school system of North Carolina?

A I was a member of one of the subcommittees, on the Finance Committee.

Q Are you reasonably and generally familiar with that Plaintiffs' Exhibit 11, the Governor's Study Report?

A Yes, I think I am.

Q I show you, Mr. Talley, what is marked for identifications purposes the *Defendant Scotland Neck Board's Exhibit No. 1* which purports to be the Profile of Significant Factors in Education in North Carolina, a Ranking of School Administrative Units, July, 1968, and ask you if you are generally familiar with that document?

A Yes.

Q Do you know who publishes it?

A Yes.

Q Who does?

A The State Department of Public Instruction, the Statistical Department, I believe, William Peek, Director.

[81] Q And do you know of your own knowledge that for the last several years that the North Carolina Department of Public Instruction has put out such a document in order to rank and rate in certain categories each and every public school administrative unit in the state?

MR. KENNEDY: Objection to leading.

JUDGE BUTLER: Objection overruled.

A I think that was the purpose of the publication. It has come out several years and the content of it seems to indicate this was its purpose.

MR. KENNEDY: Your Honor, I would like to strike any—

JUDGE BUTLER: Well, yes. Unless he knows what the purpose was, he could not testify. Objection sustained.

BY MR. JOSEY:

Q Mr. Talley, what, if anything, do you as a school administrator use this book for?

A I use it to see how the school unit that I work in compares with the other school units in the state.

Q And in what categories of comparison do you—In what categories do you compare your school with other schools?

A The amount of financial support per pupil from various sources; that is one category. Another is the [82] number of graduates from the high school who enter college or who go into fields of employment—this sort of thing. Another is the number of pupils per teacher in the various units. We are interested in seeing how we compare. Most every aspect of the school system that can be compared is shown in this publication I think.

Q In fact there are approximately 34 different tables and analyses of all of the units set up in this Defendant's Exhibit 1. Is that correct?

A Yes, sir.

Q Now, Mr. Talley, in what respects from a structural standpoint, financial standpoint, is your city administrative unit different from the Halifax County administrative unit?

A In the financial support?

Q Financial.

A The Roanoke Rapids unit voted and levies a supplemental tax on the property in the district and uses this to improve and to add to and supplement the other sources of income.

Q And what is the amount of your supplemental tax?

A The rate is 50¢ on the $100 valuation.

Q And approximately how much does this bring into your budget each year?

A Between $220,000 and $250,000.

[83] Q Do you also get your per-student share of the tax funds of Halifax County?

A Yes, we do.

Q And what are these funds that you receive from your local tax supplement—what do you use those for?

A We use them for any purpose that the board might determine they are needed for. But, chiefly, there are two categories. We supplement every professional employee's salary, that is, we pay beyond what the state salary schedule calls for. And then we supplement special categories, special personnel, beyond the standard amount of supplement. And then the third category is the number of teachers employed beyond the state allotted number; this takes a considerable amount of that money.

Q And what, if any, effect does this have on the standard of education which your school maintains?

A I think possibly two effects. First, I believe that we have a better chance, a better selective process, in picking staff members. I believe we can get a little better choice because we pay a little more money than units that do not offer supplemental salaries; and second, I believe that our number of pupils per teacher is smaller because of the extra number of teachers we employ that we could not employ without this supplemental tax.

Q Now, in the category of local funds per student, [84] where does your unit rank in the state, if you know?

A I'm not sure I know. I believe it is within the top ten.

Q Are there not approximately 160 units, that is administrative units, within the State of North Carolina?

A That's right.

Q Do you know where Halifax County ranks in relationship to Roanoke Rapids—above it, below it, or equal to it?

A Well, I think it's below it.

BY JUDGE LARKINS:

Q Now, whose rating is this, Mr. Witness? Who does the rating that puts you in the top ten?

A This rating is done by the Statistical department of the State Department of Public Instruction. These people take our financial reports, they compile them, they provide this information, and they rank the units 1, 2, 3, on down the line.

BY MR. JOSEY:

Q Do you know where your unit ranks generally relative to other units in the state, that is, the percentage of high school graduates entering college?

A I don't know that precisely.

Q Do you know whether it ranks higher or lower or equal to that category for Halifax County school administrative unit?

[85] A I believe higher.

Q Do you know where your unit ranks in relation to other units in the state as to the pupil-teacher ratio?

A Not precisely. It ranks above the median right much, but exactly where I'm not sure.

Q Do you know whether your unit ranks higher, lower, or equal to the Halifax County unit?

A Again I think higher.

Q Do you know where your unit ranks in the category of library books per student?

A I give the same answer. I don't know precisely, but I think higher than Halifax County.

Q Now, Mr. Talley, isn't it true that in each of these categories of advantage in educational standards that your unit ranks considerably higher than the units of the Halifax County administrative unit?

JUDGE BUTLER: Are you referring now to all 31 categories?

MR. JOSEY: Yes, sir.

BY JUDGE BUTLER:

Q Do you know the answer to that?

A No, sir, I don't.

MR. KENNEDY: I would like to lodge an objection to counsel's use of the word "standards." I don't know whether we have established that [86] these are in fact standards, if there are in fact standards.

BY MR. JOSEY:

Q Now, Mr. Talley, state whether or not any schools in your administrative unit are in fact accredited by the Southern Association of Colleges and Schools?

A Yes, sir. All of them are.

Q State whether or not there is a single school in the Halifax County system that is in fact accredited by the Southern Association of Colleges and Schools.

A I do not think there is.

Q What is this accreditation, what does it consist of, Mr. Talley? Will you explain that to the Court?

A The Southern Association of Schools and Colleges is the regional accrediting agency and they establish standards for public schools, and the schools who aspire to reach those standards join the association and work toward meeting the standards that they prescribe; and we think that this carries with it some prestige in terms of college entrance and that sort of thing; and our unit has been a member of the association for a very long time.

BY JUDGE LARKINS:

Q Under what authority does the Southern Associaiton operate?

A I am not certain I can answer that, sir. It is [87] the accepted accrediting agency for the South. There is another one in the northeast and one in the central. There are about four or five, I believe, in the nation.

BY MR. JOSEY:

Q As a professional educator and expert in the field of public education, state whether or not public school officials and professional educators consider this accreditation as some goal to obtain in raising the standards of the schools?

A I believe that most of them do feel that this is a desirable goal.

Q Now, Mr. Talley, state whether or not there is competition among superintendents in this state and adjacent states for employment of teachers?

A Yes, there is.

Q What, if any, effect does having a supplemental tax have on your ability as an administrator to obtain competent teachers?

A It helps. To what extent I am not certain, but it defenitely helps. The teacher wants to know first of all usually, how much money will I make; and, secondly, what are the fringe benefits; and, third, how little work do I have to do.

Q At least in the category of funds, you have the funds that the normal school unit, the average school unit, [88] the Halifax County school unit that doesn't have a supplement, you have some funds with which to deal with these people who want a little bit more money. Is that correct?

A Yes, sir.

Q Do you have an opinion as to whether or not this has enabled you to get better teachers than units that do not have supplements?

A Yes, I think it does.

Q Do you have an opinion as to whether or not this has enabled you to raise your educational standards for all students?

A Yes, I think it does.

Q I believe you testified that you were generally familiar with the Governor's Commission Report which the attorneys for the plaintiffs have introduced. I'll ask you if you in fact agree with the—Well, strike that.

I believe you testified that you are generally familiar with the Governor's Commission Report. I'll ask you if

in fact—what is your understanding of the policy as set forth in the Governor's Commission Report concerning elimination of small administrative school units in North Carolina?

A Well, I think the theory and the philosophy throughout the report suggests that small administrative units—I believe the exact language is—"where feasible" [89] should be merged with other small units to create larger units. It makes a pretty good case of having larger school administrative units than the one that I work in, for example. But it does not say anywhere that I know of that size alone is the criterion of a good school, and it does not say that there are not some small units that have good school systems.

Q Now, are you familiar at all with the finding of the Governor's Commission Report concerning the necessity for local control and local financial support? Are you familiar with that generally, that phase of it?

A Quite a bit of the philosophy throughout the report calls for more involvement of the lay people, more interest in the schools and, therefore, more support. I think this is the theme that they have in mind.

Q Do you have an opinion, Mr. Talley, as to whether or not the local citizens, at least in your area, would be willing to financially support your school with the 50¢ levy if in fact they did not have their own school board and school administrative unit?

JUDGE BUTLER: Well, how could he know that?

MR. JOSEY: He has been there a long time. I think he may have an opinion. I know he can't know it, but I believe he could have an opinion.

[90] BY JUDGE BUTLER:

Q As a matter of fact, you do have a special supplemental levy, do you not?

A Yes, sir.

Q Do you know what the people would do if you didn't have that levy?

A No, sir. I never know what they would do.

JUDGE BUTLER: All right, I think that answers it.

BY MR. JOSEY:

Q Are you familiar with small school administrative units who in fact do not have a special levy?

A I know of a few.

Q And how do they compare with either the large or small units that do have a supplemental tax, in general?

A They don't compare favorably at all. If they haven't got any extra money to operate on, they can do very little in my opinion to have a good school system.

Q And what would be your opinion as to whether or not that type of small administrative unit without a tax should be consolidated with other units?

MR. KENNEDY: Objection. I don't know what we are talking about here—small units and large units. If he would be a little more specific, I think it would shed some light on it.

[91] JUDGE BUTLER: Objection sustained as to the form of the question.

BY MR. JOSEY:

Q Do you have an opinion satisfactory to yourself as to whether or not there are certain advantages to a small administrative unit over certain large administrative units?

JUDGE BUTLER: I think you had better specify what you mean by small and large. Give the number of students or some other method so that he will know what you are talking about.

BY MR. JOSEY:

Q Mr. Talley, do you know what the Governor's Commission Report listed as the optimum minimum size of an administrative unit?

A Roughly, yes. I couldn't state precisely.

Q How many students?

A About 10,000 I believe as being optimum.

BY JUDGE BUTLER:

Q That's the minimum?

A Optimum.

Q Minimum? Oh, the largest?

JUDGE BUTLER: You said optimum—what was your question?

MR. JOSEY: I probably used the word "optimum" and minimum, which I should not have used.

[92] BY MR. JOSEY:

Q You say that the optimum is 10,000; is that correct?

A I think that is what the report says.

Q Do you recall whether or not there was a lower figure used as more or less a minimum suggested size?

A I'm sorry, I do not.

Q Now, what do you consider to be a small administrative unit on a state comparison?

A Well, a small administrative unit—I suppose you would go to the average size and any below that would be small and any above it would a large unit. I would say that anything under 5 to 6 thousand would be considered a small administrative unit in this state, but some other opinion might have a different figure.

Q Now, isn't it true that the—

JUDGE BUTLER: Now, don't lead your witness and put the words in his mouth. Just ask him the question and let him answer it.

Q Now do you have an opinion as to whether or not there are advantages of units that are considerably less than 5,000 students as compared to some other units in the state that are considerably over 5,000?

JUDGE BUTLER: Well, now, when you say considerably below and considerably above, that's [93] very indefinite. Would you state your figures so that the witness might answer a definite question.

BY MR. JOSEY:

Q Do you have an opinion as to whether or not there are certain advantages of a city administrative unit that is under 2,000, with a supplemental tax over a unit of 10 to 11 thousand without a supplemental tax?

A Just on the factors you have mentioned, I think there would be an advantage. There could be other fac-

tors, of course, that would take it in the opposite direction.

Q Are you generally familiar with the general dispersion and location of the schools in the Halifax County administrative unit—general location?

A Yes, I think so.

Q Do you have an opinion as to whether or not a unit in the Halifax County area with approximately 1,000 students with a supplemental tax of 50¢ on the $100 valuation would have certain educational advantages over what the Halifax County unit presently has? Do you have an opinion as to whether they might or not?

A I definitely think that a unit of that many pupils with a tax would have an advantage over the larger unit with no tax.

Q What would be some of these advantages in your [94] opinion?

A The employment of teachers, supplemental salaries for teachers, supplementing the school budget in any area that it might be short to the extent that the supplemental funds would do that.

Q Would that include broadening of curriculum?

A Yes, it could.

Q Does it in your unit?

A It does.

Q Would it include descreasing the number of pupils that a teacher would have to teach?

A Yes.

Q What about the facilities? Would it have any effect on the facilities?

A Insofar as the maintenance and repairs of the facilities, it might. But so far as adding facilities, it would not.

Q State what your supplemental funds can be used for and are used for, under the law.

A Any item of current expense that the board deems advisable to use the money for, as opposed to capital outlay items. They cannot use it for that purpose.

* * * *

[115]

REDIRECT-EXAMINATION

BY MR. JOSEY:

Q Mr. Talley, I believe that Mr. Kennedy asked you to read certain sections of page 226 of the Governor's Commission Report on yesterday on cross-examination, and you [116] said that you conditionally agreed with the statement that: "Despite mergers and consolidations, many small administrative units in the schools remain, and their shortcomings are evident. Administrative costs are higher. The smaller the school unit, the greater the number of teachers and other employees that are necessary to provide a quality educational program for each thousand pupils. Due to isolation or population sparsity, some small administrative units may be necessary. Other units could be consolidated without creating undue inconvenience or hazards for pupils."

What did you mean by the conditions on which you agreed with that statement?

A I think I was referring to the readiness of the two units to merge. And by "readiness" I would mean that consolidation within each unit had already progressed significantly so that that job would not be to do over again; and second, and possibly more important, that both units were levying comparable tax rates so that neither of the two units would have to lower standards or lower opportunities for its students before a merger of them would be feasible. This is my opinion about that.

Q Are there in this state, units that are under— school administrative units that are under 3,000 students which do not levy a supplemental tax, to your knowledge?

A I think there are some, yes, sir.

* * * *

[135] MR. JOSEY: Mr. Randall, come around.

MR. HUGH RANDALL, called as a witness by counsel for the Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q Will you give the Court your name, please?
A Hugh Randall.
Q Mr. Randall, what is your occupation?
A Superintendent of the Hendersonville City Schools.
Q Hendersonville, North Carolina?
A Yes.
Q And, Mr. Randall, how long have you been superintendent of that school?
A Fifteen years.

* * * *

[142] * * * Commission Report on the policy, that there are advantages, certain educational advantages of large units, but they would also say, to a man, that where a large unit in numbers does not have sufficient funds, does not have a supplemental tax to provide those funds; and where in order to consolidate, great distances have to be covered, there are many cases where the small units would be far superior to the larger unit.

Mr. Martin, I believe, is also one of the original 17 members of the Governor's Commission, and he would testify that there are certainly numerous cases where the overall policy would not be educationally sound to consolidate the units and to eliminate a number of the smaller units in this state which have sufficient funds to operate. I believe all of them would testify that funds, unfortunately, is the first item that must be obtained in order to maintain a good education, and after that the other factors can be obtained.

They would also all testify that one of the aims and one of the findings and recommendations of the Governor's Commission Report was that more local participation, more local financing, more local support be obtained for our public schools in North Carolina.

I do hereby tender these witnesses for any cross-examination by Mr. Kennedy.

* * * *

[161]

REDIRECT-EXAMINATION

BY MR. JOSEY:

Q Mr. Dussenbury, you say you are familiar with this Defendant's Exhibit No. 1, Ranking of School Administrative Units in North Carolina?

A Yes, sir.

Q I ask you to turn to Table No. 5 and ask you as to where your school ranks, Tryon City school ranks, in the category of percentage of classroom teachers with maximum experience for pay purposes?

MR. KENNEDY: May I make an objection and and observation? The exhibit is in evidence, and we have been over this before. If he has some factual evidence, I think—

JUDGE BUTLER: Well, now, don't we have exactly the same situation as when you examined this witness about the Governor's Report?

MR. KENNEDY: If Mr. Josey will stipulate that the other gentlemen will respond on cross-examination the same way that Mr. Dussenbury and Mr. Randall responded, then I won't cross-examine any further.

[162] JUDGE BUTLER: Well, certainly what he is about to testify to is in black and white and is available to us to read, and I don't see any necessity for it, but I think since you took the time to cross-examine Dr. Dussenbury, let him answer this one question. Let him tell where Tryon ranks in all categories.

MR. JOSEY: Well, now, Judge, that will take a long time. There are 36 categories. I don't believe we ought to do that. I think it would be nice, but—

JUDGE LARKINS: In all categories just tell us where they rank—above or below average.

MR. JOSEY: If you will permit me to ask him a leading question, I can suspend with him in two seconds, if Mr. Kennedy and I—

JUDGE LARKINS: Well, ask the question.

BY MR. JOSEY:

Q Isn't it true, Mr. Dussenbury, that your school, Tryon City school, in the category of percentage of classroom teachers with maximum experience for pay purposes ranks 14th in the state out of 160 units? That's in Table No. 5.

A In Table No. 5 we rank second in professional staff —No, no, I was on page 5. Table 5.

Q Table 5, percentage of classroom teachers with [163] maximum experience for pay purposes ranks 14th, is that not true, in the state?

A This is correct.

Q Pupil-staff ratio, Table No. 14, is it not true you rank 31st in the state out of 160-odd units in pupil-staff ratio?

A This is true.

Q Is it not true in Table No. 15—

JUDGE LAKINS: Now, Mr. Josey, isn't it true, or it is true that the tables from which you are reading are all correct. (To witness) Is there one that you would question the figures in?

THE WITNESS: To the best of my knowledge, they are correct, sir.

JUDGE LARKINS: All right. We've got the book.

MR. JOSEY: Yes, sir. All right.

JUDGE LARKINS: Any questions from any of the others?

MR. TAYLOR: I would like to ask him—

CROSS-EXAMINATION

BY MR. TAYLOR:

Q What is the population of the Town of Tryon?

A The Town of Tryon or Tryon Township?

Q The Town of Tryon.

[164] A Student population around 800 to 850. The Town of Tryon itself is around 2200.

Q You draw your students, then, from outside the town?

A The entire township, yes, sir. The town represents a 1-mile radius from the center of town.

MR. CREW: I want to ask one question, the same question of all four witnesses. I will address it to all of them at the same time.

BY MR. CREW: (Cross-Examination)

Q I ask you if in your opinion as a school administrator, if it's not detrimental to the health, education, and welfare of children that they be transferred during the school year from class to class or from school to school?

A I would think this would be detrimental, yes, sir.

Q I ask you if it is not administratively difficult if not almost impossible to make drastic changes in your plans for the school year within 3 or 4 days before the opening day of school?

A It would create some difficulty, yes, sir.

* * * *

FERD L. HARRISON

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. BOURNE:

Q Would you state your name and address for the record, please?

A My home address?

Q Yes, sir.

A Ferd L. Harrison, 1807 Fenner Street.

Q Mr. Harrison, do you hold any public office in Scotland Neck?

A I have been Mayor since August of 1958 I believe.

Q Have you held public office prior to that in this area?

A No, I have not.

Q Your first venture into politics?

A Right, first and only.

Q How much education do you have, sir?

A I have a B.B.A. degree from Wake Forest College.
Q Do you have children in school?
A Two.
Q Where are they in school, sir?
A They are in Scotland Neck School. One is in the ninth grade and—one has just completed the ninth grade and the other has completed the eleventh.
Q When did you first become aware of the movement in the community to establish an independent school district for the Town of Scotland Neck?
A Oh, I'd say it was early January. My brother give me a copy of the proposed bill with the information. He thought the Town board should be aware of it since it would involve them.
Q You were not aware of it before that time?
A No, nothing other than discussions over in the Idle Hour that people would have about trying to improve the education of our children.
Q When were these first discussions? Between August 1968 and this time in January that your brother mentioned it to you when were these discussions? Do you recall?
A I would say it was the latter part of December possibly.
Q Were you aware of a trip that your brother took to Tryon with Mr. Josey and Mr. Gregory?
A I knew they took a trip but what he went to—he's taken trips all the time, but I don't inquire. He's been on the school board for fourteen years, and I've been in city politics for eleven, and we kind of have an understanding—I stay out of school board politics and he stays out of city politics.
Q So you didn't know the purpose of that, what it was for, to Tryon?
A Nothing other than they were going to look at a school.
Q The discussions which you had with people at Idle Hour—for the record, which I believe is a restaurant here in Scotland Neck, is that correct?
A Right.

Q In those discussion did—what were the main areas in which improvements were desired? I will be specific in order to facilitate this and go through it faster. Do you recall the—what problems there were with curriculum that people talked about?

A Well, I think that we have had, from the information as I listen to it, that your education was declining. I saw that in my own children. And this is the major interest that I had was through my own children.

Q How was the curriculum declining, sir?

A How?

Q Yes, sir. Can you expand on what this decline was?

A Well, my—my children were—now about you explaining what you want me to give you there a little deeper.

Q Well, you said that you understood, I believe—

A Right.

Q —that there were inadequacies in the local school?

A Right.

Q Is that correct?

A Right.

Q And so, specifically, do you recall any specific inadequacies that were mentioned with regard to the curriculum ordered at Scotland Neck High School?

A No, I don't think it was in the curriculum. I think it was more in—from the standpoint of teachers.

Q What was the weakness concerning teachers?

A Well, either they were not getting the subject across to the students or they were having a problem getting it across. Now what that was I don't know.

Q Did anyone have any recommended solutions for this?

A No.

Q Who were the persons you discussed this with?

A Well, I can—I can't name you any particular people. It's just the group of people that have coffee over there about 8:30. The same ones there every morning. If you come over there tomorrow morning, I will point them out to you.

Q For the record could you tell me who some of those people are who have coffee in the morning at 8:30?

A Occasionally Mr.—my brother, and Mr. Shields—in there at 8:30. Mr. Josey is in there, 8:30 or 9 o'clock, before he goes to the office. The Town Clerk is in there some mornings before 8:30 or 9 o'clock.

Q What is his name?

A James Boyd.

Q Is that Junior or Senior?

A Junior.

Q Do you recall any of these people specifically talking about the school?

A No, not specifically.

Q And these conversations occurred approximately what time, December of 1968?

A Oh, I would say so.

Q Do you recall any statements that the teachers here in the Scotland Neck Schools were not certified to teach?

A No, I don't.

Q The subjects they were teaching?

A No, I don't.

Q Do you recall any discussion to what their number of degrees were?

A No.

Q I believe you stated that you were told by your brother in January of 1969 that there was a—he showed you a bill?

A A proposed bill.

Q And he indicated that there was a movement to establish an independent school district for the Town of Scotland Neck?

A Uh-hunh.

Q Is that correct?

A Right.

Q Did he mention at that time any specific areas of improvement that that bill would bring about?

A No. He just showed me the bill and let me read it, and he said: I think that you as the Mayor and the Town Board should be informed of this. I said: Okay. We're having a meeting this afternoon and I will give it to them as a matter of information. And this was all that was said about it.

Q Was this the first that the members of the Town Board had heard of it, when you spoke to them about it?

A Yes.

Q Did any of them indicate to you officially or unofficially information as to this that they might have had prior to it?

A No.

Q They might have had to it then or afterward?

A No.

Q None?

A No.

Q. Did your brother indicate to you that any survey by professional educators had been done of the needs of the school, of the Scotland Neck School?

A No.

Q At any time since that meeting with him in January of 1968 up until the time the bill was voted on here in Scotland Neck did he indicate any results of any surveys by professional educators?

A No.

Q January 1969. Excuse me.

A No.

Q From January 1969 until the passage of the bill here?

A Give me that question again if you-re changing that date, if you will.

Q From January 1969, when you first heard of it until the time the referendum was passed here in the community creating the Scotland Neck School District, did your brother mention any surveys of local needs and areas of improvement done by professional educators here in the community?

A No, not to me, other than what he had done; I mean in the information that he had.

Q What-did anyone else mention any surveys to you such as this?

A No.

Q During this period?

A No.

Q What information did your brother relay to you as to the areas of improvement?

A You mean what the school system would mean?
Q Yes.
A Well, he just indicated—showed the plan for it and he brought out the fact that—asked me what I—or rather, he brought out the fact that this would be an improved educational system, that we would have more money to operate on if this thing was passed on by the people of the Town, and that as such we could, of course, hire better teachers and improve our education.
Q Did he indicate to you specifically how this money would be spent in the future—this extra money?
A No. I gathered just by my own guessing it would be spent on teachers.
Q Did he indicate to you that there might be some costs or administartive costs that this extra money—some of this extra money might have to be used for?
A Well, I would assume that—when you say administrative costs, you mean the superintendent I assume, that some of that would have to go there, but he didn't indicate that.
Q He didn't indicate that any money would go for superintendent's salary?
A No, because I never discussed that with him.
Q Office expenses, clerical expenses, bookkeeping, or any of those expenses?
A No, he didn't indicate any of that to me.
Q Did you get the idea that he had made a study as to how much would go?
A No, I didn't.
Q Did he or anyone else indicate to you—strike that. During the period between January first, 1969, and the passage of the bill did you have occasion to confer yourself, either alone or with others, with any professional educator in the State of North Carolina concerning the advisability—
A I did. On one occasion I went with the group when they went to talk to Dr. Phillips. I was in that group.
Q Was that in Raleigh?
A Right.

Q And what was Dr. Phillips' opinion as you heard it?

A His opinion was that—he took the stand that he opposed this because it was inviolate—contrary to the Governor's Commission on Education.

Q Did he explain that the Governor's Commission on Education's report—the document which I am showing you right now—is in favor of merger between school districts even across county lines?

A I don't recall that, Mr. Bourne. I do recall that he mentioned larger consolidated schools.

Q Were you aware in the fall or winter of 1968 and '69 that a study had been done of Halifax County Schools by the Department of Public Instruction?

A No, I wasn't familiar with that.

Q I'm sorry. For clarification did you mean you hadn't read it or you just didn't know that it had been—existed?

A I knew a study was made of our schools, oh, way back there because I had heard my brother say so, but other than that I no nothing about it. I've never read it, don't know what it consisted of, or in what department.

Q You had no idea what recommendation, if any—

A No, sir.

Q —were made by it?

A No, sir.

Q I may have asked you this—what do you do for a living aside from being Mayor? Is that a full-time job?

A No, this is part-time. I operate Ashford-Harrison, Inc. It's an appliance—Goodyear Tire dealership, and I also have a dairy. I distribute or ship on the side, operating the Scotland Neck Dairy.

Q Were you aware of the fact that in late July, approximately July 27th, as a matter of fact, a letter was written to the Board of Education of Halifax County by the Department of Justice indicating that the Department of Justice had reason to believe the County school systems were operated in a manner inconsistent with federal desegregation law?

A If I did, I read it in the newspaper because I never discussed it with anyone.

Q Between July 1968 and January first, 1969, did you discuss school desegregation within Halifax County with any person here in Town?

A No, sir. No, sir. That might sound mighty vague to you, but that is a fact, because, like I said, I have stayed out of the school. I've got enough headaches in city politics.

Q Were you aware of the fact that there were—from your children or from others—that there were Negro pupils transferred to the Scotland Neck School from Brawley School for the 1968-69 school year?

A Sure, I knew that.

Q Did you know that in the—that prior to that time the only desegregation which occurred in Halifax County Public Schools was on the basis of freedom of choice plans?

A Right, I knew that.

Q Had you heard talk of any proposed merger of Brawley and Scotland Neck High School into one school?

A Nothing other than the junior high over here, when that was consummated.

Q But you knew of no proposal to consolidate the other schools?

A No.

Q In September 1968 did you speak, along with some other gentleman, at a P.T.A. meeting here in Scotland Neck?

A Yes, I believe I did.

Q Concerning industrial development?

A Right.

Q And the need to preserve the public schools of the community?

A Right, I did.

Q Was that meeting called and were you called to that meeting immediately after it was publicly announced that there would be the movement of the seventh and eighth grade from Brawley?

A I don't know about that. I don't know about that timing on that. I was just asked to appear on the pro-

gram to speak on behalf of industrial development and the effect of the public schools on industrial development as I saw it, and this I did.

Q Did you have occasion during that speech to mention private schools?

A No, sir.

Q Are there any private schools operating in this area?

A There is Enfield Academy.

Q Do you know when Enfield Academy was set up?

A No, I do not.

Q Do you know the race of the pupils who attend there?

A I know that, yes.

Q What is it?

A White.

Q Did any persons here in the local community, after the school bill was passed by the Legislature, and leading up to the referendum, work in favor of the passage of that referendum?

A I don't know whether they did or not; I would assume that some of that was done, sure, but I don't know that because nobody contacted me on it.

Q Do you know whether more people—do you know how many people were registered to vote during the special registration period between April—well, leading up to the April referendum?

A Would you give me that question again, please?

Q Do you know how many persons were registered during the special registration period?

A Prior to the election?

Q Prior to the election.

A Of the school referendum?

Q Of the school referendum.

A The books were open prior to that, and a total of 657 registered. Of that, the breakdown by race, 344 white and 313 Negro.

Q How long did that registration period go on?

A I'm not sure. I think Mr. Boyd could give you that, but I didn't ask him that information.

Q As Mayor of the Town are you also a member of the Board of Commissioners?

A Right. I am chairman of the Board of Commissioners. I conduct the meetings. I am not a voting member however except in case of ties.

Q I see. Do you know how many persons were registered to vote here in Scotland Neck prior to the special registration period?

A There was a total of 725 registered prior to that. Of that breakdown, 678 were white and 47 Negro.

Q Do you know how many persons were purged from the voting list during that period, and their race?

A Right. There were 29 removed by challenge. Then there were—there were 48 removed by the fact that they were deceased or had moved out of our corporate limits were no longer citizens. Of those 48, nine were Negro and 39 white.

Q Of those challenged, do you know the race?

A No, I'm sorry, I do not.

Q But they were challenged, am I correct, at the polls on the day of the referendum?

A No ey were challenged on challenge day. There is a day set up at the end of registration as challenge day when the books are open, and this is followed in keeping with the statutes of this State.

Q Is it customary here to have voters challenged in local election?

A Yes, they have been challenged before.

Q Were you at the polls on the day of election?

A Yes. I voted.

Q Did you also stay there longer than was necessary for you just to go up and vote?

A Probably five minutes. I stopped out at a tent to talk with some people standing out there for a minute.

Q Were those people sitting around a card table?

A Yes. There were two groups. There was a group of white citizens sitting at one card table and a group of colored citizens at another.

Q I assume they were—is the tent you were referring to the one where the white persons were sitting?

A Right.

Q Who were the persons?

A I can't answer that. That's how much impression they made on me. I think that day the reporter took a picture of it. You can get a picture from Mr. Rogers. I think it'd show this.

Q Is—this is a clipping which purports to be from the Scotland Neck COMMONWEALTH, April the 11th, 1969. Do you know the persons who are—

A This is my brother's wife here.

Q Henry Lee Harrison?

A Right.

Q And who is the other one?

A This is Mr. Ennis Bryant here, and I don't recognize this—is that—I don't recognize that party. Of course, I recognize him!

Q You say you don't know who the other lady in the picture is?

A I said this one is my brother's wife, Mrs. Henry L. Harrison, and I think that was Mrs. E. K. Veech, Jr. I'm not sure of that, but that is who I think that is.

Q Is your picture also in that photograph?

A Well, if you can't recognize that ugly thing, then I'm sorry for you! That is I right there.

Q Do you know what these ladies were doing at the polling place?

A Keeping a record of the people who voted—

Q Do you know—

A I would assume.

Q Do you know what the purpose of this record would have been?

A To try to keep up with how many people were voting, is the only purpose I could guess in it, and that would be the same thing, would be true of the colored citizens.

Q Would the goal there be to get those people out to vote later in the day?

A Possibly so.

Q Do you know whether a car pool was operated later that afternoon to get people to the polls?

A The only car pools that I saw operated were by the colored.

Q Prior to election day did you see any literature distributed in the Town of Scotland Neck in favor of the passage of the referendum?

A No.

Q Do you know what the final results were in the referendum, the precise numbers?

A We had a total vote of—let me explain this to you off the record.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Do you know then what the official tally for the vote was that day?

A The official vote that day was 1145 total votes. 14 spoiled ballots, 813 voted for the referendum and 332 voted against.

Q Of those do you know how many persons who voted were white and how many who voted were Negro?

A No, I do not. I don't have that figure.

Q Would that figure be available?

A You could—

Q Here in the city.

A You could get it by going through the—maybe the registration books to see who voted and then break it down from that perhaps.

Q On the day of the election how many persons, total, were registered and qualified to vote in the Town of Scotland Neck?

A According to the record we have at the town hall, after those people who were challenged were removed and the deceased were removed, there were—it left a total of 1305 registered to vote.

Q Of whom how many were white and how many were Negro?

A That would be 678 and 344, less those removed; this would be just a guess now because I don't know how many of those—of the 29 who were challenged—I don't know how many of those were of what race. 983 white,

341 Negro, other than the 29. Those 29 would have to come off of those two figures to get you correct.

Q Other than the purged voters?

A The 29 who challenged.

Q And the purged, too?

A Well, I took those off the 48. They are taken off of this figure.

Q Has the Board of Commissioners levied the fifty cents tax bill permitted?

A Beg your pardon.

Q Has the Board of Commissioners of Scotland Neck voted the fifty cents supplemental tax, the bill and the referendum authorized?

A We have certified the election of the people of the Town who—they voted the tax themselves, not the Town Board. And we have billed out with our tax notices—we are going to bill this in our billing because I think it was set up in the bill itself—my understanding, and I haven't even read that, that the Town Collector would collect the tax and turn it over to the school board.

Q Has the Board of Commissioners levied the fifty cents supplemental tax?

A I would say yes, yes, because our Town Tax Collector has been instructed to, as per the instructions of the school board, to add this on and collect it for them.

Q When you first discussed the Scotland Neck Board with your brother back in January—or was it December? I'm not—in 1968?

A Well, I didn't discuss it with him at any time. I just—as I told you before, he gave me a copy of the proposed bill and I read that bill totally to the Town Board.

Q When you first discussed it did you know that it was contemplated by those who were for the bill, who were working for the bill, that students from outside Scotland Neck would be permitted to attend the Scotland Neck School on a tuition basis?

A Yes, because this is the law of the State of North Carolina.

Q Did your brother make specific reference to that or was there discussion with other persons, specific reference to that?

A No, not with me.

Q Did you discuss that with your Board of Commissioners?

A No. As I stated before, I read the draft of the Act to the Board, and I think if you will look in those minutes, you will probably find that somewhere in there this was given to the Board in substance as a matter of information because it had not become law. It hadn't even been presented, I don't believe, at that time to the Legislature.

Q Did you know about approximately how many students were contemplated for the school district?

A No, because I didn't know at that time. I know since then. But I don't know how many children lived inside the corporate limits of Scotland Neck.

Q When did you first learn that information?

A Sometime after the bill was introduced and it was brought out in a hearing up at the Legislature.

Q How many persons do live in the Town of Scotland Neck?

A I think it's five hundred and some. Just how many, I can't tell you specifically.

Q It's children of school age?

A Right.

Q Do you know how many persons it was contemplated that would come in from outside on a tuition basis?

A No, I—it was projected. An estimate. No.

Q Do you know now?

A No. I could tell you approximately. I would have to say, by subtraction, that I have heard it will be in the vicinity of a thousand students, projected, in this school, and if you take five hundred or so, or six hundred, locally out, that will leave the balance to come from outside. But as far as specific figures and the number of children and their race, I can't tell you, no.

Q Do you have an idea that the majority of those that will go from outside will be white or Negro?

A I would say the majority would be white.

Q Do you have an idea of the range, would be eighty percent white, ninety percent white, roughly?

A Oh, I would say probably sixty to seventy percent.

Q Sixty to seventy percent white coming into the Town?

A Right.

Q Do you know what the percentage of—percentages in this section of Halifax County who are white is outside of the Town of Scotland Neck?

A About seventy-five percent colored in this area.

Q Say, east of Enfield and south of—

A I would say in our township area that the colored race outnumbers the white probably three to one.

Q Within the Town of Scotland Neck do you have any idea what the percentage of population is?

A No, I don't.

Q White, I mean.

A I can tell you the approximate percentage of school children in this thing. The figures that I have read from the paper are three hundred—three hundred ninety or three hundred eighty something white and two hundred ninety-nine colored.

Q At the time the bill was introduced did you know that the Scotland Neck junior high school facility was located outside the city limits?

A Oh, yes.

Q Although it is just a stone's throw from the city—

A The border is on the corporate limits.

Q —from the street. At the time your brother talked to you in January was any mention made of possibly including the junior high school campus within the borders of the district?

A No, not with me.

Q And you said that at that time you didn't know whether there would be a thousand pupils, or how many pupils there would be in the school year?

A No.

Q But you did know that a tuition plan was contemplated?

A Right.

Q From January till April 1969 did you hear your brother, Mr. Henry Lee Harrison, make any statement to the effect that an independent school for Scotland

Neck—strike all of that. Have you ever heard your brother render an opinion as to the adequacy or inadequacy of private schools?

A No, I haven't.

Q Have you ever heard him make any statement indicating that the public school envisioned by this bill for the Town was a better alternative than private schools?

A I don't recall hearing him make any such statement.

Q Have you ever heard Mr. Josey make such a statement?

A No.

Q Mr. Gregory?

A No. What Gregory is that?

Q Thorne Gregory.

A Oh, no.

Q Mr. Frank Shields?

A No.

Q Do you know, or have you ever heard the term 'pairing' used with reference to public schools?

A I have heard the term, yes.

Q Do you have a general understanding of what it means?

A No, not in the concept of education.

Q You don't have a general idea?

A I do my own idea, but I don't know whether it's in keeping with what this is all about or not.

Q Is your idea of pairing that pairing means that in public education that you take a—take two schools which are located relatively close together and take all the pupils in those two schools in one set of grades—like grades one through six—and put them in one school and all of the other children in the other set of grades and put them in the other school?

A Uh-unh, this would be my understanding of it.

Q Have you ever heard pairing discussed with reference to schools in Scotland Neck?

A No.

Q Are you aware that pairing has occurred in neighboring counties?

A No, I am not.

Q Of Scotland Neck?

A No.

Q Or has been ordered by Federal Courts in neighboring counties?

A I have seen—read articles in the paper of proposed pairing of schools in the South.

Q In the South?

A Right.

Q Are you aware that a pairing provision was in the order of Bertie County?

A No, I wasn't.

Q Do you know that Bertie County was involved in school litigation?

A No.

Q Have you discussed the advisability of the private school district with Mr. Josey?

A No.

Q Of the Scotland Neck school?

A Have I done what now?

Q Discussed the advisability of the separate school district with Mr. Josey?

A No, I haven't discussed it with him, other than when this bill passed the Legislature.

Q Do you recall what he said at that time?

A No, I don't.

Q I think you stated, did you not, that the ladies in this photograph—Mrs. Harrison and the other lady whose identity you are not absolutely sure of—

A It looks like Mrs. Veech.

Q Mrs. Veech. —were keeping some sort of record of who voted and who did not?

A Right.

Q Do you know whether one of those ladies or some other person still has that record?

A That I can't answer. I don't know.

Q Do you know any other persons who were working with them, these two ladies?

A No. They are the only two that I saw there and they are there in the picture.

Q Am I correct in understanding that the Town of Scotland Neck has annexed some territory outside its—in recent years?

A Right. It has.

Q Am I correct in understanding that in March 1968, approximately, it annexed some property near the Brawley School?

A No, I don't know about the date. We annexed some property over in the area adjoining Brawley School. It's a housing development.

Q Do you know approximately how many houses are included in that?

A There are two homes in that now and—new homes. Now I don't know how many old residences; there were one or two. There was a Superette business included and also one other piece of property adjoining Brawley School property which requested to come in.

Q Do you know the race of the persons who live in this area?

A Negro. All Negro.

Q And the race of the people who live in the newer homes?

A Negro.

Q Are there any other areas which in the last two or three years have been annexed?

A There have been one or two over in the Negro area who have been annexed in so that we could give them water and sewage. I don't know exactly how large it was. It was a small parcel. For example, one parcel had a corner of a lot which was out that he wanted to buy and the other part was out and we took it in.

Q In the western section of the City has there been any annexation?

A. No, not in the last few years to my knowledge.

Q. In the last five, or in your experience as Mayor have there been any—eleven years?

A I don't—I can't recall whether there was a section over beyond the—in the north end of Town. I'm not sure when that came in, but I think it was annexed in the last ten years. Maybe twelve.

Q How large an area is that?

A I would say, oh—excuse me.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) You believe there may have been one in the last ten years?

A Perhaps one in the last ten years, and that would be debatable because it could have been eleven or twelve, approximately.

Q How many homes have been involved?

A In which section?

Q In the north end section?

A Oh, in the last—twenty or twenty-five have built over there in the last ten years.

Q Are these rather new ranch-style homes near the hospital?

A No, this is up on the northern end of Town.

Q Has there been any annexation in the northern end of Town in recent years?

A No. I take that back. Excuse me. I believe we did take in a section, a small section of land, that Mr. House was developing, and this is some two or three—maybe eight or ten new houses back over there behind the hospital that has been taken in in the last three or four years.

Q Was the property sold there to homeowners, occupied or to be occupied and owned primarily by white persons?

A I don't know about that. That would be a guess on my part, to who he would sell it to.

Q The property already sold?

A The property already sold. Most of it was white, all that. There was some Negro residences down the street at the time it was bought or taken into Town. I'll say it that way.

Q Are there any present proposals to annex property?

A Not—if anybody comes in with—the owners of the property come in with a request, I would say we would annex any area that requested such.

Q Has it been any proposal brought before the Board of Commissioners or before yourself by any person concerning annexation of the junior high school site?

A No.

Q Or property around it?
A No.
MR. BOURNE: I think you can go ahead.

EXAMINATION BY MR. JOSEY:

Q Mr. Harrison, has it ever been any request by the Halifax County Board or whoever—any request made of the Town Commissioners since you have had anything to do with it that you know of to have the Brawley School annexed?

A No, there has not been.

Q Do you know of any area or citizens, Negro citizens, who have made requests to have their property brought into the city limits that have been denied that privilege?

A I know of none who have been denied. There was one request made which was not completed, but the reason was that we require that any realtor or any developer who wants to be brought—have his area brought into Town bring us a map with appropriate surveys, and also have his streets shaped up in order for us to make them over, and this is required, and Mr. Walter Clark had an area over there—he discussed with one of the members of the Board about bringing it in and we told him we would be glad to take it in if he met these requirements and he never did because he died before he ever finished.

Q Didn't Mr. Walter Clark have some areas which you people in fact, did bring some small areas in, in fact you brought in previously?

A Yes, he did.

Q Which were Negro?

A Right.

Q This one particular one he didn't quite complete before he died?

A No. He didn't never make up his mind whether he was going to bring it in or not. He finally said he thought he would, but he never did complete it, get the maps and the street layouts, and so forth.

Q Is it your—in your opinion if any group of citizens of Halifax County, whether they were Negro or white, living adjacent to the corporate limits desired to come

into the corporate limits, is it your feeling that the Town Commissioners would in fact agree to bring those into the corporate limits and in fact extend the school limits, so long as the tax was forthcoming from that group of citizens?

A I think that they would be happy to bring them in if they would request to come in regardless of what group they might be, provided that they made the request.

Q Now, Mr. Harrison, I believe that the records show that it was in along in the middle of June 1969 that the suit was instituted against the Town of Scotland Neck by the United States Government, the suit in which we are now involved in, and at that time I ask you if in fact Frank P. Shields was not a member of the Town Commissioners?

A At that particular time that I was served with my—with the summons Mr. Shields was not a member. I don't know the exact date, but the minutes reveal the date that Mr. Shields resigned, and I believe it was somewhere around the middle of June.

Q And had not been a member of that Board for approximately two months?

A That's right.

Q —at the time this suit was instituted, and he was actually served as a party defendant?

A That's right.

Q What is the name of the commissioner who was a member of the Board of Town Commissioners at that time but was not served and not named as a party?

A Mr. Andrews came on the Board prior to Mr. Shields' resignation to replace Mrs. Allsbrook who resigned.

Q I believe Mr. Andrews was in fact named in the suit—

A Right.

Q —and was served; it wasn't D. E. Josey, Jr.?

A He was elected to the Board. When Mr. Shields resigned, the Board took the position—I think the motion was made that we not appoint a successor to him because the election was coming up within two weeks, and we felt that we would either put somebody on the spot and that man would be under the gun, so to speak; and three

people filed for the race and we elected—the people elected the man they wanted and Mr. Josey won that position and he was, of course, sworn in.

Q Mr. D. E. Josey?

A D. E. Josey, Jr.

MR. JOSEY: I'm through.

* * * *

C. M. MOORE, JR.

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. BOURNE:

Q State your name and address for the record, please.

A My name is C. M. Moore, Jr., and I live in Littleton, North Carolina, Halifax County.

Q What is your education, sir?

A I'm eleventh grade. High school.

Q Did you go to school here in Halifax County?

A No, I went in Warren County.

Q How long have you lived in Halifax County?

A Approximately fifty years.

Q Are you a member of the Board of Education of Halifax County?

A Yes, I am.

Q How long have you been a member?

A Fifteen years.

Q That would be since 1954?

A Either '54 or '55. I'm not sure. Fourteen or fifteen years.

Q How long have you been chairman of that Board?

A Approximately ten years.

Q Between 1954 and 1964, the 1963-64 school year, what efforts did the Halifax County Board of Education make to desegregate its public schools?

A Not any to my knowing.

Q When was—strike that. What date marks the beginning of desegreation of public schools in Halifax County?

A Specific date?

Q Well, approximately what school year?

A Approximately 1965.

Q For the 1965-66 school year?

A Yeah, somewhere in there. I don't have the record with me and I can't give a—

Q Until the 1968-69 school year is it true that the only kind of desegregation which occurred was under freedom of choice plans?

A Until the 1968-69? Yeah.

Q And isn't that true that in August of 1968, approximately a year ago, the Board of Education of Halifax County entered into an agreement with the Department of Justice by which the Board agreed to assign all seventh and eighth grade pupils on a non-racial basis in the County to formerly predominantly white schools, and to enter into—to develop a plan for the 1969-70 school year for total disestablishment of the dual system?

A Yes, it did.

Q Do you recall in the winter of 1968-69, last December, January, the submission of a plan to the Department of Justice for desegregation for 1969-70?

A It was submitted, yes.

Q In the development of that plan were any other plans considered?

A Several plans were considered, yes, sir.

Q Could you describe the alternative plans which were considered?

A Without some records I couldn't go into details, but there were several suggestions on different—pairing of different grades and transfer of different children, and after hearing numerous groups of patrons of schools, we come up with the plan that was submitted to Washington, the Justice Department.

Q Was freedom of choice still an element of the plan that you presented to the Department of Justice?

A When the plan was presented?

Q Yes.

A No, it wasn't.

Q There was no freedom of choice in that plan?

A Oh, yes, there was some in the plan, yes, sure. I thought you meant did we consider freedom of choice when we considered the plan that was submitted to

Washington. We did not consider at that time a complete freedom of choice all over the County.

Q But there was some freedom of choice?

A Yes.

Q Did you consider—strike that. Are you familiar with the School Survey of Halifax County written by the Division of School Planning of the North Carolina Department of Public Instruction?

A Yes. We've had two or more and I'm familiar with—

Q Are you familiar with the one that was published in late 1968?

A I think so.

Q This?

A Yes.

Q Are you familiar with the interim plan which was developed?

A I'd have to review that to refresh myself with it.

Q Do you recognize this document as the School Survey, a copy thereof, Plaintiff's Exhibit 2?

A Yeah.

Q And on pages 15 and 16 and 17 do you see the interim plan as it was developed?

A Yes, I do. Yes, this plan was considered.

Q Does this plan not divide the Halifax County Administrative Unit as then constituted into four districts and provide for consolidated high schools in each of those districts and elementary schools in each of those districts feeding each of those high schools?

A Yes, I would say so.

Q In considering this plan, isn't it true that the Board had developed by the superintendent's office facts as to the race of pupils who would be attending each of these schools, approximately, if this plan were implemented?

A I think so, yes, sir.

Q Are these figures, this sheet of paper which I'm now showing you, which is marked Plaintiff's Exhibit #5, these are the figures that you saw which indicated the enrollment and—enrollment by race of the pupils who would be attending those schools?

A Now you refer to the four, to the schools that were listed in this plan?

Q Yes, sir.

A This shows the number of children that would be attending these schools. Whether this is in line with the proposed plan you have over there I'm not—I don't know, unless I could have them both and make myself familiar with them.

Q Have you ever seen a document such as this?

A Yes.

Q Is this the document which you are referring to?

A Yes, sir.

MR. JOSEY: Let me see that.

(DISCUSSION OFF RECORD).

Q (Mr. Bourne) Back on the record. Do you recall why the State plan which would have provided for four consolidated schools in the County, the interim plan, why this was not adopted when you presented your plan to the Justice Department and why another plan was adopted in its place?

A The only thing I remember would be that some of the Board members felt that this was not the ideal plan and that the consolidation of two—one or two high schools would be the ideal plan, and of course at that time money was not available to do this.

Q In other words, are you saying that they preferred the long-range plan, with some variation of the long-range plan, to this interim plan?

A Yes, I am.

Q But for the short range, of course, the long-range plan could not have been implemented in the 1969-70 school year, could it?

A No.

Q Construction would have been impossible, or virtually impossible?

A Yes. For your information, one has already been started and, of course, we couldn't begin to get it ready by the 1969-70 school year.

Q So the short-range plan could have been adopted for the 1969-70 school year as opposed to the plan which you

presented to us which also did not involve major capital expenditures, is that correct?

A It could have, yes.

Q As between those do you recall why this State plan was not adopted, as opposed to the plan you submitted to the Justice Department?

A The reason I would say would be because we had a delegation preferring the plan that we submitted—delegates and patrons, both black and white, that preferred the plan we submitted.

Q Do you recall the members of the black delegations which specifically preferred the plan that you presented to the State plan which was developed by the Department of Public Instruction?

A I don't remember them by name. They were representatives from Scotland Neck, and some from Littleton, and some from Weldon, and I might add they were not in agreement among themselves, but the majority was in favor of this plan as—

Q As opposed to the State plan?

A Yeah. Of course, if you will allow me to say this: in agreeing to this plan we took into consideration delegations that we had had before the final meeting to adopt this plan. We had a group of Negro patrons from the Eastman School and they said that they did not intend sending their children to a white school, that they were perfectly satisfied where they were and they wanted to keep their school in the community, and we had—

Q Were they referring to—excuse me.

A And we had a delegation from the McIver School in Littleton, which is an all Negro school, that was so large we had to go to a different building to hold the meeting. We had to go to the agriculture building. And they were dissatisfied because we were moving the seventh and eighth from McIver School to a white school, and we told them we had to do it in order to comply with the Justice Department requirement.

Q Were these groups apprised of the fact that every school within the district under the interim plan, except one, would have been a majority black school?

A Yes, I'm sure they were, both through conversation we had in the meetings and also through the press.

Q What were the dates of these meetings that you had?

A I do not know.

Q These were in December and January?

A I do not know. The minutes would show what dates they were.

Q The minutes of the County Board?

A Yes.

Q These were official school board meetings, is that correct?

A The one with the patrons from Littleton, McIver District School—school, were—was a regular meeting. Now I don't know—I believe the Scotland Neck delegation met with us in a night meeting, which would not be a regular meeting. It was a call meeting for that purpose.

Q Wasn't that in September 1968, the meeting at which the Mayor spoke on industrial development?

A No. I wasn't at that meeting I don't think.

Q And these were meetings specifically called to determine what sort of plan would be developed for 1969-70 or for 1968-69?

A '68—well, I'm not sure. I'm not sure. I believe they were for 1969-70. But, now, the meeting with the McIver group—I'd like to clear myself—was in protest to our moving the sixth and seventh grades to Aurelian Springs.

Q So that concerned the 1968-69?

A 1968-69.

Q And was before this State plan was even completed?

A Yes.

Q Did you consult with Reverend Deloatch?

A No.

Q Did you consult with Dr. Salter Cochran?

A No.

Q Or with his group, members of his group?

A He was in the meeting, but we just heard him make a statement.

Q Was he opposed to the implementation of the State plan?

A Not to my knowing.

Q But the others there were, you say, the other Negroes there were?

A They were not opposed to it, but they agreed to this plan. The Scotland Neck group, the representative that talked to me after—at the end of the meeting, I don't know his name—but I understand he was from Scotland Neck—he said that he felt like we were doing—making the best plan we could make, and I told him then, I said, "If you come up with any opposition to it, let me know."

Q Have you ever discussed this with a man named Forgan Berry?

A Where is he from? . . . No.

Q Do you remember generally endorsing—strike that. Do you have any reason to question the educational expertise of the people who wrote the School Survey for Halifax County?

A No. You're speaking of the State people?

Q Right.

A No.

Q Have you met with some of those people?

A Yes.

Q Do you recall the names of those persons?

A Dr. Pearce.

Q Dr. Pearce?

A Yes.

Q Do you accept their view that larger high schools than presently exist in Halifax County, high schools which would be consolidated and which would offer more course offerings than presently are available in high schools in Halifax County, do you presently accept that view by them, that is, that is educationally desirable?

A In most cases, yes. There may be some exceptions but in most cases, yes.

Q Now the long term plan that they developed, I believe they recommended two consolidated high schools for the whole county administrative unit, one in the southeastern part of the county and the other in the northwestern part of the county, is that not correct?

A That's correct.

Q And I believe you have already stated that the county has begun to move toward developing one of those schools in the northwestern part of the county?

A Yes.

Q Do you know how many course offerings that school will have?

A No, I don't. That has not been determined.

Q Do you know, generally, that because of its larger size than the present high schools, that it will probably have more course offerings and more comprehensive programs than of those that exist?

A That is one of the reasons that we have undertaken it, because it was stated in the plan.

Q When did you first hear or get word of the development of the Scotland Neck School System before the bill was introduced into the Legislature?

A When it was published in the papers, local papers.

Q Well, that would have been about January 1969, shortly before the bill was introduced, is that correct?

A I don't remember. Along about that time. I don't remember the exact date.

Q Were you aware that prior to that time citizens from Scotland Neck, including Mr. Josey and Mr. Harrison, had—were interested in developing a new—

A I knew nothing about it. See, I live seventy-five miles from here, approximately. I might add this: it was not discussed in any Halifax County Board meeting. Nothing was brought up in a Board meeting about it. We knew nothing about it.

Q Had you heard talk unofficially about it?

A No, I hadn't.

Q Was—the first you heard of it was in January of 1969 or thereabouts?

A Yes.

Q Do you know any Negro citizens from this area of the County who are in favor or were in favor of the creation of the Scotland Neck School System as a separate school system?

A No, I don't. I couldn't call the name of a Negro in Scotland Neck. I know some by face, because they met with the Board, but by name I do not know them.

Q Do you know any citizens in the County, Negro citizens in the County, who were opposed to the Scotland Neck—

A No.

Q —School System?

A No, I don't.

Q Now in—strike that. When the bill was first aired, when Thorne Gregory, representative from this area, announced that he was going to introduce the bill in the Legislature and it first hit the newspapers, do you recall being interviewed by any newsmen concerning your views of the Scotland Neck System?

A Yes. I was called on the telephone.

Q Do you recall who called you?

A I can't.

Q What newspaper he represented?

A I don't remember his name. I cannot give you his name.

Q Could it have been Marshall Lancaster?

A It could have been. I don't remember his name.

Q Do you recall expressing any views as to the advisability of the system here, the separate system here?

A Yes, I remember making a statement about it.

Q Isn't it true that you said you believed it would be a good thing for the people of Scotland Neck to have a separate system?

A Because of upgrading their school.

Q Isn't it true that you said that—that you explained to the reporter who interviewed you that Negro students outnumber whites in the County by four to one and that in Scotland Neck you believed at that time that Negroes only constituted about eighteen percent of the school population?

A Yes, I remember making that statement.

Q Isn't it true that you said that by leaving the Halifax County System Scotland Neck could insure that the ratio of Negro to white pupils would remain comparatively low, and by 'comparatively' I think you meant—

MR. CREW: Object to what you think.

A I don't remember making that statement.

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) But you do recall making a statement about the projected school population for Scotland Neck would be eighteen percent Negro and the projected —your view of the population of the County was about four to one black?

A I remember making the statement, but later finding out that the percentage—eighteen percent was wrong. That it was a higher percent than that.

Q Do you recall when you found that out?

A When I attended the next Board meeting and asked the question.

Q So that was several weeks later?

A Yes.

Q If you want to tell me what the number, percentage, that you learned was—

A I don't remember the percentage. Some—maybe forty percent.

Q But you're not sure?

A I'm not sure.

Q Just higher than eighteen?

A I'd have to get my records.

Q Isn't it true that you stated to this reporter that, to this reporter, that the independent school system for the Town of Scotland Neck was a better alternative to private schools for white students, which had been established in eastern North Carolina the last several years?

A Would you state that question again?

Q Would be a better alternative to private schools such as have been created in eastern North Carolina over the past several years?

A I don't remember making that statement, but I do think it would be a better—

Q Do you recall telling him that we are losing white children every day who apply for private schools. I'm sure that next year we may lose a tremendous number?

A Yes, I remember making that statement.

Q And do you recall stating that the people in Scotland Neck who you had talked to, whose attitude you were aware of, did not think that the private schools were the answer to the educational problems of their children and they wanted—and for that reason they wanted this system?

A Yes.

Q Who are these people that you talked to in Scotland Neck?

A Those that attended our meeting that was held prior to this—submitting this plan to the Justice Department.

Q Did that include—

A Some by name, was Mr. Josey and Mr. Harrison, and—

Q Mr. Henry Lee Harrison?

A Yes.

Q And—

A Well, some others in this section. Mr. Leggett. And I believe that's all I remember by name.

Q Was Mr. Frank Shields in that group?

A I did not know Mr. Frank Shields at that time.

Q Do you recall now whether he was a member?

A No, I don't recall now whether he was in that meeting or not.

Q Was Mr. Bob Winfield in that group?

A I don't know him.

Q Was the Mayor of Scotland Neck in that group?

A I do not know the Mayor of Scotland Neck.

Q And you recall these people telling you—

A In general conversation.

Q This was at the meeting, at the school board meeting?

A No, it was after the meeting, in general conversation.

Q Mr. Moore, do you know the approximate number of pupils, white and Negro, who attended schools last year in the Halifax County Administrative Unit?

A Approximately ten thousand.

Q Total, and do you know the approximate racial breakdown—I think you said it was about three and a half to four to one—four to one I think you said—black?

A I said that would be my guess for Scotland Neck, but in the County I think it runs seven to three. Something like that.

Q Would you argue with the figure 78 percent Negro?

A No. I think Mr. Overman's record would show that. I'm just not familiar with the figures.

Q If it were 78 percent Negro or almost 80 percent black, then that would mean that out of ten thousand students there are approximately two thousand white persons and approximately eight thousand—a little under that—black persons attending school in the County?

A Well—

Q Is that not correct?

A Well, there are some few Indians which would have to be accounted for, but other than that, that—it would be that approximate figure.

Q Would you look at a form which I'm showing you which purports to be under the signature of W. Henry Overman, dated October 4, 1968, and the precise total number of pupils is 10,635, and of them 102 are American Indians, and almost 76 are non-white, and 8196 are Negro?

A Yes.

Q Which would leave approximately 2300 white students in the system?

A Yes.

Q Are you aware of the number of pupils who will be attending the Scotland Neck School next year?

A No, I'm not.

Q In general—you are not even in general?

A No.

Q Apprised of the figure?

A I don't think we've been presented with those figures yet. I don't remember being presented with them. They will come up at a later meeting. I may say this: I have heard some guessing of eight through—all the way from three hundred to eight hundred.

Q Is that the total enrollment or people transferring in the County?

A I don't know that—I've heard it would be 375 and I've heard it will be eight hundred or nine hundred. I just don't know. I have not been presented with those figures.

Q Would you argue with the figure approximately a thousand pupils will be attending the school here as did last year?

MR. CREW: We would object to assuming that. He has said he doesn't know, so I don't think he would argue with any figure.

Q (Mr. Bourne) Do you know whether a majority of the students or pupils in the Scotland Neck system will be white or Negro?

A I do not know.

Q Do you know of any agreements which have been reached between the County School Board and the Scotland Neck School Board concerning transfer of pupils from one system to another?

A No. I don't believe we made any agreement, not to my knowing we haven't, with the Scotland Neck School Board.

Q No agreement has been made?

A Not to transfer students.

Q I'm just trying to refresh your memory now. Do you know of any agreement concerning allowing pupils living within the Scotland Neck—but who attended Brawley School last year, and who would be going into the eleventh and twelfth grade, any agreement which would permit them to continue to go to Brawley?

A It is my understanding that the Scotland Neck Board has agreed to permit them to go and under our freedom of choice plan, why, they would be allowed to go to Brawley.

Q So that there has been some that will be permitted next year, so far as you know?

A So far as I know, that would be permitted next year.

Q Will any of those students be charged tuition to go to Brawley School?

A No.

Q Have there been any joint meetings of the Town Board and the County Board of Education to work out problems of changing from one system to the other?

A There have been two I believe.

Q What were the purposes of those meetings and what were they—

A One was a meeting of representatives from both boards in Raleigh with the State School Board, getting

information on how to transfer different school business, and so forth. And then the other meeting was—in my opinion was just to inform the Scotland Neck School Board what we knew about the operation of schools. It was just a general discussion. I don't think any agreement was reached on any specific thing.

Q Has the County Board agreed to lease the junior high school campus right on the edge of Scotland Neck to the Town of Scotland Neck School Board?

A Yes. That was done in our June meeting I believe.

Q That was your own meeting, not a joint meeting?

A No, it wasn't.

Q And isn't there some money involved in that transaction—one dollar for one year?

A Yes. Very similar to the school we lease from the Roanoke Rapids City Unit.

Q Before this agreement was—was finalized from the point of view of the County Board, how long before that was it that you first realized as a member of the County Board that the Town of Scotland Neck, local board here in Scotland Neck, would be trying to lease that property or would be in need of that property?

A Well, I think that was discussed in our first full board—joint board meeting, whether they would need that property or not. I think it was discussed then, which was probably at our April or May meeting.

Q The first one after the school district was set up?

A Yeah.

Q What instructions did the Board give to Mr. Overman regarding the working out of any sort of agreement between the Board and the Town regarding this property?

A That—that it be leased to them for one dollar a year and the lease agreement to be very similar to the one we have with the Roanoke Rapids City Unit on the Chaloner School.

Q If the Board didn't know how many pupils were going to be—going into Scotland Neck, how was it determined that the County Board would not need that property for the operation of the County schools?

A Well, the Scotland Neck children used those buildings last year and we assumed they would need them this year.

Q Isn't it true that a number of pupils who attended Scotland Neck School last year did not live in Scotland Neck?

A I'm sure it was. I don't know the number.

Q So is it fair to say that you simply assumed that had there been need for it here last year that there would be next year?

A Yes.

Q You did not really look into the number of pupils in the County?

A Well, the number of pupils in the County will not be known until they enroll for next year, and this was all on the assumption that it would be needed here, and was generally agreed with the Board that should Scotland Neck not need the buildings and the County need them, they would terminate the lease.

MR. BOURNE: I believe that's all.

EXAMINATION BY MR. JOSEY:

Q Mr. Moore, now isn't it true that that decision on whether the junior high building was going to be leased to Scotland Neck or whether it was not was deferred until that—those freedom of choice forms came back in, and it was not until after it was determined by Mr. Overman and Mr. Currin as to how many children basically had at least chosen to go to Scotland Neck before the Board of Halifax County definitely agreed to and did in fact execute the lease? Wasn't that—isn't that basically what happened?

A Yes, that is true.

Q That some discussion took place at the early meeting but the Board of Halifax County said that they would not do anything about that school building, officially at least, until the freedom of choice forms came back and they had at least some indication of where the students were going to be or at least where they chose to be under the Halifax County School freedom of choice.

at least that gave some pretty fairly concrete information to Mr. Overman and the Board to determine whether or not Halifax County Board was going to need that building—isn't that basically what happened?

A Yes, that is true.

Q Now in regards to—let me show you this article from which—dated January 20, 1969, Raleigh NEWS AND OBSERVER, January 20, 1969, under the staff right of Marshall Lancaster, headlines, "Scotland Neck Considers Separate School System," and ask you to please read that.

A At the beginning of the record—

Q I don't mean read it out loud. Read it to yourself if you will. . . . Now, this—this is a newspaper article which is in the files of Mr. Bourne and Mr. Kennedy, the United States Justice Department representatives at this deposition, and what—where were you when you were interviewed by this paper?

A I was at my home.

Q And was this a telephone interview by Mr. Lancaster?

A Yes, it was.

Q And is there anywhere in there that he quotes you as saying—the statement that Mr. Bourne asked you about, the fact that Scotland Neck could insure that the ratio of Negro to white pupils would be—remain relatively low by withdrawing from the County? Now that is not a direct quote from you, is it, according to that newspaper article? He doesn't have that in quotation marks like he does a number of other quotes from you, does he?

A No, he doesn't.

Q Neither does he have—of the statement that Mr. Bourne asked you about, this is an alternative for private—to private schools in quotation marks from you, does he?

A No, he doesn't.

Q But he does have a number of other things that are actually quoted from your interview, isn't that correct?

A Yes, it is.

Q Do you have any idea how much time you talked to him on the phone?

A Approximately five minutes.

Q Did you know he was going to call you when he asked you—to ask you about the percentage of students and that sort of thing; did you have any opportunity to prepare for any—to obtain any sort of figures at the time—

A No, I didn't.

Q Now, Mr. Moore, Mr. Bourne asked you if the only desegregation prior to 1968 was under freedom of choice, and I believe you said it was up until the Fall of 1968, is that correct?

A The best I can remember it was.

Q And hadn't there been some integration of faculty due to assignment by the Board, other than freedom of choice, in that category prior to the Fall of 1968?

A Yes, it had.

Q And as far as you and the Board were concerned, up until May of 1968 freedom of choice was the law of the land, up until the Supreme Court in May of 1968 said differently, isn't that correct?

A That's correct.

Q And as far as you and the Board were concerned, up until that point you were complying with the laws of the United States of America and the constitution of North Carolina, and the laws of North Carolina to the best of your ability, isn't that correct?

A Yes, we were.

Q Now, Mr. Moore, isn't it true that immediately after the decision of the Supreme Court in the Kent—in GREEN v. KENT COUNTY, VIRGINIA, case, was handed down in May of 1968, and I believe at the June meeting of 1968, if in fact the Board of Education of Halifax County at that meeting, and before any complaint was lodged as being in violation of the Civil Rights Act of 1964, the Halifax County School Board requested of the State school officials to conduct a survey in order to come up with a plan, a State recommended plan for the whole school system of Halifax County—isn't that your recollection?

A That's true.

Q Now, isn't it true, Mr. Moore, that in general Scotland Neck Schools, that is, schools in the Scotland Neck town limits, have for one reason or another in the past seven—eight, ten, fifteen years, even—or certainly since you'be been on the Board, received somewhat less, maybe, of their—of a per capita or per student share of the various funds to build new buildings and to provide new facilities, somewhat less for one reason or another?

A For capital outlay purposes, yes.

Q Mr. Moore, do you recall—do you recall sometime in 1965, early part of 1965, that the Scotland Neck—that the leaders, representatives, of the Scotland Neck area, made a substantial effort to have a separate school system set up and in fact—in the Scotland Neck area—and in fact presented a bill through Mr. Thorne Gregory in the Legislature for a separate school system consisting of several townships—do you recall that?

A That was in 1965?

Q That's right. 1964 or '65.

A I don't recall that.

Q You don't recall any—

A I vaguely remember something about it, but I couldn't—I'm afraid I couldn't explain it.

Q Do you recall a meeting being called in about June of 1965 by Senator Allsbrook in Halifax to a—a public meeting to discuss the pros and cons of that separate school unit bill? If you remember. If you don't—

A I don't believe I remember that. I was just trying to refresh my memory, but I don't remember.

Q All right, sir. Now, Mr. Moore, do you remember in the Spring of 1966 you and Mr. Overman, Mr. Harrison and possibly others, going to Raleigh and talking with the office—the people in the office of the State—State Superintendent of Schools, and particularly the office of school planning, State school planning, Dr. Pearce, about a plan of new construction for certain schools, buildings, throughout the County, and particularly a—which included a consolidated integrated high school for the Scotland Neck area?

A Yes, I remember that very well. We had a conference with Dr. Pearce and his staff.

Q And to the best of your recollection one of the phases of that proposed construction plan was to have a—a new high school building built in the immediate Scotland Neck area which would be an integrated—integrated high school, wouldn't it?

A The best I can remember the plan was that we would build a high school, a complete new high school, in the Scotland Neck area for integration, to include integrating the black and white students of this section.

Q And at that time isn't it also your recollection that as far as you were concerned Mr. Harrison, Henry Lee Harrison, who is the only member who lived in the immediate Scotland Neck area, or the Board of Education of Halifax County was in agreement with that and as far as you know the people in Scotland Neck were—would accept that and were willing to move along with that program as far as—

A Yes. That information had been brought to us in a Board meeting, and on several different occasions.

Q Do you remember why—why that plan was never carried out?

A It was not approved by the State planning board.

Q Mr. Moore, wouldn't you say that it is a fair statement to make that from your association with Mr. Harrison on—Mr. Henry L. Harrison—on the Halifax County Board of Education for the past ten or twelve years, that he and the people of Scotland Neck have been as flexible and susceptible to changing conditions and reasonably willing to accept change and to implement policies of the H.E.W. and the laws of the—the changing laws, changing school laws, as any section in the County?

A Yes, I would.

Q And wouldn't you say it is a fair statement to make that Mr. Harrison in the entire time he has been on the Board has been—that he has been one of the leaders on the Board in trying to move forward and improve education, not only for the Scotland Neck area, but for the entire Halifax County?

A Yes, I would. He's been very active in that capacity.

Q And certainly the people of Scotland Neck and their representatives, representatives on the Board of Halifax County who lived in that area, have certainly not been ones to drag their feet on moving forward in education, have they?

A No, they haven't.

Q Now I believe you mentioned some conversation that you had—might have had with myself and Mr. Harrison after—after some board meeting, Halifax County School Board meeting. Hadn't it always been Mr. Harrison's thinking as expressed to you from time to time that the primary reason for backing this Scotland Neck School bill and law was to improve the education of the students who live in the Scotland Neck area over and above everything else, both black and white?

A I'm thoroughly convinced of that.

Q And, based on your experience on the School Board for many years, the Halifax County School Board, and the knowledge you have of the—of the conditions in Halifax County, don't you also—aren't you also of the opinion that with this fifty cents additional tax in the Scotland Neck School area and with the leadership of the people who are interested in education in this area, that the Scotland Neck School, under the new law, separate system, has a good chance of improving its overall standard of education for its students here?

A I think so, because there would be more money available.

Q Now, Mr. Moore, in regards to the long-range plan or the ultimate plan that the State came up with for Halifax County, which I believe required a substantial bond issue for the entire County, at the time this was—this plan was completed by Dr. Pearce to the board what was your personal opinion as to the possibility of obtaining a favorable vote on such a bond issue?

A In my opinion it would be impossible.

Q Was that not the general thinking of the entire Board of Education at that time?

A So far as I know it was.

Q And your recollection of the discussion of the—strike that. There was no official vote taken on whether or not the bond issue would pass or fail by the Board, was it?

A No.

Q But from your discussions with the individual members and knowing what you know of the situation, what was your impression of what the other board members thought of the possibility of such a bond issue passing?

A I don't recall any of them—any of them making an opinion that it would pass. They all, all of them, all the Board's opinion was that it would not pass.

Q Even if the—if the voters in—who live in the Halifax County School Administrative Unit boundaries voted the majority for it, would that necessarily mean that such a bond issue would carry?

A No. No, I don't think so.

Q Why is that?

A Because of your population in the Weldon School District and the Roanoke Rapids School District.

Q Isn't it true that from a political standpoint, from the standpoint of the number of registered voters in the entire County, that those registered voters who live in Roanoke Rapids and Weldon School Districts comprise approximately half of the total voting population of this County?

A Yes, I think so.

Q And hasn't that to some extent been one of the problems that any bond issue would—which had to be submitted to—to get money for schools, isn't that one of the problems that has existed for many years in this County?

A Yes, it has. And in my opinion the bond issue that we are now paying off was only carried because the people in Roanoke Rapids wanted it, not the—they voted a large vote for it, one that we are now paying off.

Q And what do you think the possibility of any—if it were put to a vote, of any possible consolidating of Halifax County?

MR. BOURNE: Object to that. That calls for speculation.

MR. JOSEY: We've been dealing in speculation for two weeks on these depositions. I'm going to ask him and you can strike it from the record at the proper time.

Q (Mr. Josey) Based on your experience in Halifax County over the past fifty years, particularly on the School Board, what do you think the possibilities of a favorable vote in this County would be on consolidating Halifax County Schools with Roanoke Rapids and Weldon Schools?

A I don't think it's possible.

Q And don't you agree that—wouldn't you say it is fair to say it is because they feel they've got a better school system, possibly better teachers, more money to run their schools with on a per pupil basis?

MR. BOURNE: I object to that.

Q (Mr. Josey) And in fact that is the reason they would not want to consolidate with Halifax County—isn't that correct?

MR. BOURNE: I object.

MR. JOSEY (To Witness): Go on and answer.

A Yes. It's been—we as a Board have been knowing that all along, knowing all along that any good teachers we get in the County wind up in Roanoke Rapids. They pay a supplement and they get the better teachers. And we have agreed among the Board members for a number of years that their system is a better system than the County system. They offer more subjects and have more participation in all phases of the school.

Q (Mr. Josey) And wouldn't you say, also, that one of the—that they have—that they will raise these funds, these supplemental taxes to some extent because they have local members of their Board who have the authority to hire and fire their principals, their superintendents, their teachers, whereas the other communities in the County do not have that authority and control over their local schools?

A Yes.

Q Isn't that at least a part of it?

A Yes, I would say so.

Q And, Mr. Moore, aren't there some problems which are created for the Halifax County School Board admin-

istratively because of the great distances between—from one end of the County to the other that you would not have if it were more compact physically?

A Yes. There are bussing complications because of the distance that we—as I said awhile back, I live approximately seventy-five miles from Scotland Neck. I don't know anything that's going on in Scotland Neck. I am just not in contact with it at all.

Q And as far as the—well, the consequences of Scotland Neck being a separate unit and approximately eight hundred to a thousand students attending Scotland Neck School, that still will—there still will remain in the Halifax County Systen nine or ten thousand students, which is completely adequate for—as far as educational purposes is concerned—for a sizeable unit. Isn't that correct? In Halifax County.

A I would think so, yes.

Q And the creation of a Scotland Neck Unit will not diminish in any way, will it, the amount of County tax money or State money or federal money per student for the remaining part of Halifax County?

A I don't think it would. It shouldn't.

MR. JOSEY: Your witness, Mr. Crew.

EXAMINATION BY MR. CREW:

Q Mr. Moore, I believe you testified you had been on the Board for approximately fifteen years and chairman for some ten years?

A As best I can recall.

Q And you certainly didn't serve that fifteen years for the pay that you got, did you?

A No.

Q Have you at any time had anything in mind other than improving the quality of education in the schools of Halifax County?

A No.

Q Did the Halifax County Board at any time do anything to encourage the creation of the Scotland Neck Unit?

A No.

Q From your experience on the Board, Mr. Moore, is it necessary that the schools have the support of the people of the County in order to be successful?

A Yes.

Q In your opinion I ask you if the new private schools that have been created in the last three or four years in this County and in adjoining areas, I ask if in your opinion the quality of education in those schools is not inferior to that of our public schools?

A In my opinion I think they are.

Q If immediate and total desegregation should be ordered in all of the schools of Halifax County, I ask if in your opinion that would not encourage the building of more private schools and the expansion of the private schools now existing in this County and surrounding counties?

A Yes, it would.

Q And I ask if in your opinion the net result of that could not be and probably would be that there would actually be less integration in our schools than we now have if that should occur?

A Yes.

Q Now you spoke of the various meetings that the School Board had and regular meetings and special meetings. I believe you stated that much of the opposition to the school board's plans for more integration met with opposition from Negro delegations?

A Yes, sir.

Q And I ask you wasn't there considerable opposition from the parents in the John Armstrong Chaloner School in the Roanoke Rapids area?

A Yes, there were.

Q And I ask you during your time on the Board if you have not at all times tried to improve and expand our school so as to improve the quality of education for all students, including the Negro students in the County?

A Yes, we have.

Q And as a practical matter, from your knowledge of the voting patterns and the voting precincts, I ask you if it isn't a fact that you as chairman of the Board have

gotten the majority of the Negro vote every time that you have been a candidate for the Board?

A In my opinion I think I have.

Q Now you were on the Board when we had the bond issue in 1958 or 1959, the three million dollar bond issue?

A Yes.

Q And the vast majority or a large percentage of that which went to the County went to improve the Negro schools in the County, did it not?

A The majority did.

Q Now when the School Board in March, I believe, of 1969, voted to adopt the freedom of choice plan for the school year 1969-1970, I ask if the bill setting up the Scotland Neck Unit had already been introduced in the General Assembly at that time?

A Yes, it had.

Q And at that time the bill setting up the Littleton-Lake Gaston Unit certainly was in the discussion stage, if it had not already been introduced?

A Yes.

Q I ask if it is not impractical and almost impossible for the County Board of Education to make any substantial changes implementing integration in our schools until the Scotland Neck question and the question of the Littleton-Lake Gaston Unit have been officially settled?

A Yes.

Q And I ask from your fifty years experience as a citizen in the County and from your fifteen years membership on the Board that if the recommended consolidation of the high schools in the county units, so that we would have the two as recommended in the long-range plan, once they become an accomplished fact I ask if it would not be easier at that time to have total and complete integration in our schools as required by the federal law?

A Yes, I think so.

Q Do you know, Mr. Moore, the ratio of Negro and white students that there will—would be for the pro-

jected enrollment for the Littleton-Lake Gaston School for the current—for the coming school year?

A The district is composed of approximately 55 percent Negro and 45 percent white.

MR. CREW: That's all.

MR. JOSEY: Let me ask one or two questions?

MR. BOURNE: Okay. Fine.

EXAMINATION BY MR. JOSEY:

Q Mr. Moore, back in—in August of 1968 the agreement that was entered into between the Halifax County School Board and the Justice Department was not as Mr. Bourne said, but wasn't it that the seventh and eighth grade of certain Negro schools would be put into each and every predominantly white school—that was what we were to do, what the Halifax County School Board was to do in the year 1968-69, isn't that correct?

A Yes.

Q I believe Mr. Bourne said that every Negro seventh and eighth grade would be taken out and put into a white school, but that was not the case, isn't that correct?

A That's right.

Q Because there were certain schools, such as Eastman, which were not physically close enough to any white school in order to do that with Eastman?

A That's right.

Q Eastman would still have remained black, totally black?

A Yes.

Q And then the other part of the agreement was that by March 15, 1969, the Halifax County School Board would submit a plan to the Department of Justice which would be in compliance with the Civil Rights Act of 1964, isn't that basically the agreement?

A That's right.

Q Now, certainly by January of 1969, and in February of 1969, isn't it true that the Halifax County School Board, and particularly Mr. Overman and Mr. Currin at the board's request, set about to come up with a plan

which in the opinion of the board attorney, and in the opinion of Mr. Overman and Mr. Currin, would be in substantial compliance with the Civil Rights Act of 1964?

A Yes, they did.

Q And in fact they came up with such a plan some three or four weeks ahead of the deadline and submitted it to the Department of Justice, and the reason that it was submitted a month early was so that the Halifax County School Board could get some decision early in order to know what was going to be done for the year 1969-70, isn't that correct?

A That's correct. We wanted to get the information to the patrons of the school community children before the end of the school year.

Q And isn't it true that that plan as submitted to the Department of Justice as a practical matter eliminated—strike that word 'eliminated'—integrated enough Negro students into the white—the several predominantly white schools in this County to in fact eliminate every predominantly white school and at least had in the neighborhood of fifty percent whites and fifty percent blacks in practically every—in every white school in this County?

A Approximately, yes.

Q Yes. And the School Board submitted that plan to the Department of Justice in spite of opposition from the blacks, the whites, and the Indians and everybody else in—practically—in this County was on the neck—back of the School Board for submitting that plan, and the School Board was going to do that because they had felt like there was a good faith effort in trying to comply with the law, isn't that correct?

A Yes, it is.

Q And isn't it true that the Department of Justice sat on that plan for quite a long time before they rejected it, isn't that correct?

A For one or two meetings. I know one or two months, I know. Maybe more. I don't remember the exact time.

A And isn't it also true that the Department of Justice was immediately notified—strike that. That when

the Department of Justice notified the Halifax County School Board of the fact that this plan was rejected, that it did not in any way suggest any sort of minor changes in it that could be accomplished, but in fact practically rejected the thing from top to bottom to the extent that the Halifax County School Board was left without any—any plausible alternative?

MR. BOURNE: I object.

Q (Mr. Josey) Isn't that correct?

A That's right, we felt this was as far as we could go and certainly further than the general public was going itself.

Q And wasn't it the feeling of the School Board and the determination of the School Board all through the Fall of 1968 and through the winter of 1968, and January and February of 1969, that they were going to make a strong determined good faith effort to comply with the Civil Rights Act of 1964?

A Yes, we worked on that thing every meeting during that school year, I think, trying to meet the deadline and come up with a plan that would be acceptable.

Q And was it not the feeling of the School Board and—the Halifax County School Board, after this plan was rejected, that if some change was going to be made in the Fall of 1969 that the Department of Justice should make some prompt move so that Halifax County School Board could have a reasonable length of time to plan for the 1969 fall school year?

A Yes. We felt like we would need time to make the change, if any.

Q In fact, nothing, an order, no communication, was had from the Department of Justice or from H.E.W., or any other governmental agencies until this suit was filed on June 16, 1969, isn't that right?

A Yes, to my knowledge that's right.

Q Isn't it also true, Mr. Moore, that each and every time that the Department of Justice communicated with —with the Halifax County School Board, back as early as the summer of 1968, that the Halifax County School Board immediately responded to their communication, cooperated with their investigators here during the sum-

mer of 1968, and immediately upon hearing from the Department of Justice that we were in violation—that the Halifax County School System was in violation of the Civil Rights Act of 1964, that the representatives of the school—of the Halifax County School Board went to Washington to discuss the matter with the officials of the Justice Department, and in each case not only tried to cooperate, but tried to help solve the problems that—and solve the problems in a legal and lawful way in accordance with the interpretation of those laws by the Justice Department?

A Yes, that's true.

Q And isn't it your impression that you and other members of the Board, and also the superintendent, Mr. Overman, and the assistant superintendent, Mr. Currin, and the attorney for the Halifax County School Board have at all times been open and honest with the federal officials, both H.E.W. and the Department of Justice, in the facts and figures and conditions and circumstances of the school system of Halifax County?

A Yes, that is true.

MR. JOSEY: Your witness.

EXAMINATION BY MR. BOURNE:

Q I believe you said in response to some of Mr. Josey's questions that it was immediately after the Green decision—the GREEN v. NEW KENT COUNTY, in May of 1968, that the Board of Education for the County asked the State to run a survey of this County's schools, is that correct?

A As best I can remember, that's correct.

Q Was one of the purposes of obtaining this survey to obtain the best plan educationally for the desegregation of the schools of the County?

A I didn't get that question.

Q Was one of the purposes—

A Oh, yes, yes.

Q One of the purposes, not the only purpose, but one of the purposes of this plan was to obtain the best plan educationally for the desegregation of the schools in the County?

A Yes.

Q Was this one of the problems that the Board considered when it asked for the plan?

A Yes.

Q And I believe you stated that in—from—until 1964, or five, there was no desegregation at all in public schools in Halifax County, or at least in the Halifax County Administrative Unit?

A I believe I did state that, yes.

Q And that—

A 1964-65.

Q I think either 1964, or five. The record will speak—

A I believe we had some segregation before then—I mean integration before then. I should have brought my minutes and I could have been a little bit—

Q At any rate it was in the mid-sixties?

A Yes, because we had integration from the Indian race into both the white schools and the Negro schools before that time.

Q But in white-Negro—whites in predominantly Negro schools and Negroes in predominantly white schools, you didn't have any of that before 1964?

A I don't think so.

Q Now I believe you stated there was a plan in 1966 for a consolidated high school to be here in this—to be built here in this area, isn't that correct? 1966, I believe there was a plan; you went to Raleigh and talked to Dr. Pearce about constructing a school in this area, a consolidated high school, in this area?

A That's correct.

Q And at that time is it not correct that you have already stated that you were operating under freedom of choice and that was your desegregation plan?

A I didn't get that question.

Q Isn't it correct that you were operating under freedom of choice at that time?

A What year now?

Q 1966.

A Yes, I think so.

Q Do you know of any counties around here, in this area of North Carolina, that were not operating under either freedom of choice or no integration at all at that time?

A Do I know of any counties?

Q Yes, sir, in this area, in 1966.

A Yes.

Q Which one?

A Well, Warren County for one.

Q Was operating under what system?

A Under freedom of choice.

Q But do you know of any that were not operating under freedom of choice?

A No.

Q They were operating under pairing or complete zoning of school districts?

A State the question again.

Q Do you know of any schools that were operating with complete zoning at that time or pairing of schools at that time in this area of North Carolina?

A No.

Q Was any plan by the Board of Education of Halifax County to zone this County?

A No.

Q Any plan to pair the schools of this County?

A in 19—

Q '66.

A There was discussion about it, but no plan.

Q Now I believe in response to a question by Mr. Josey that you stated that the per pupil monies available to the County Board of Education would not diminish because of the creation of the Scotland Neck School System?

A I don't think it would.

Q Isn't it true that the County School System has lost State allocation for an instructional supervisor and have to either not have one of its instructional supervisors or be funded out of County funds?

A That's right.

Q Are there any other losses to the County in terms of staff or other—in any other way allocation from the State funds?

A Not that I know of. It hadn't been brought to my attention.

Q How many instructional supervisors did you have last year?

A I believe it's four. I'm not sure though.

Q Four?

A I think.

Q And this year you will have three?

A No, no four.

Q And one of those salaries will be paid out of the County?

A It's three. It will be whatever number it was last year.

Q Now, I may have asked you this question. I just want to clarify this information. When was the first time that you heard that the junior high school campus might be needed in the Town of Scotland Neck for the Town schools?

A It was in the meeting that we—joint meeting that we had with the Scotland Neck School Board, which was immediately after the School Board was created, the Scotland Neck School Board was created.

Q You had not heard talk that it might be needed before that time, informally?

A No.

Q I believe you testified in response to questions by Mr. Josey concerning the school system—systems planned as submitted to the Justice Department in the late winter or early spring of this year, is that correct?

A Yes.

Q Now are you generally familiar with the provisions of that plan?

A Yes, I think so.

Q Isn't that true that that plan divided the district, the administrative unit into five zones?

A Four or five, as I remember it.

Q This plan received publicity in the local newspapers?

A Yes.

Q Was a map drawn in the local newspapers to—which relatively accurately described the boundary lines of these

various zones and showed which schools were included in these zones?

A I think so. I think that was paid for by the County, by the County School Board.

Q I have here what purports to be a clipping. I would like to ask you to look it over, simply to refresh your memory. . . . Now is it substantially accurate to say that one part of the plan would have placed all students in the attendance area of the William R. Davie School in high schools in that area, and the children of the elementary school, that is to say, grades one through seven, of that age level, and that grade level, would have gone to either Aurelian Springs or Everetts School on a zoning basis?

A Yes, I think so.

Q And is it also fair to say that in the attendance areas of the Eastman School all children living within that area and attending grades eight through twelve would have attended the Eastman high school and that all children living in that area and attending grades one through seven would have attended either Hollister, Pittman or White Oak School on the basis of lines drawn across that larger attendance for separate elementary attendance for those schools?

A Yes.

Q Is it fair to say that all children living in the McIver area would attend that school as a union school, grades one through twelve?

A Yes.

Q That was the plan?

A You're reading the plan?

Q Right. Now is it fair to say that in area one, which was the area served—formerly served by the Brawley High School and the Scotland Neck High School, that all students would attend the Brawley School or the Scotland Neck School, all high school students, on the basis of freedom of choice?

A Yes.

Q That was the plan?

A Yes.

Q Is it not also true that all children attending grades one through five living in the Scotland Neck and Brawley attendance areas would attend one of those two schools on the basis of freedom of choice, either the one or the other, on the basis of freedom of choice?

A Yes.

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

MR. BOURNE: He answered the question, the first question that Mr. Josey objected to.

Q (Mr. Bourne) Now in reference to that last question was your answer based on the assumption—that question—I said Scotland Neck and Brawley attendance. I meant the attendance zones as defined in the plan, zone one E, which is the zone of attendance for the elementary grades for those schools and not for the high school grades of the Brawley and Scotland Neck Schools?

A Yes.

Q Isn't it also true that in zone two, which is served by the Enfield and Inborden Schools, one of which is predominantly white and one of which is and has been all Negro, the Inborden School has been all Negro, that all pupils in grades one through five and nine through twelve would attend those schools on the basis of freedom of choice, and that grades seven and eight would be assigned to the Enfield School?

A Yes.

Q Now have we just recited for each one of the zones the essentials of the plan that was submitted to the Department of Justice?

A Yes.

Q And is it not true that in one of those zones, the Brawley-Scotland Neck zone, there would have been freedom of choice for all high school pupils, grades nine through twelve, and that in one of those there would have remained freedom of choice for grades one through five, all pupils, that is, area two, the Enfield-Inborden area, and the other one for the smaller elementary area, that would have remained freedom of choice for grades one through five—the Scotland Neck area?

A Yes.

Q Now I believe you testified—well, strike that. Isn't it true that for area two, the Enfield-Inborden area, the only zone of pupils into one school, both black and white would have been for the seventh and eighth grades of those schools?

A Yes. I can't remember all of that stuff. . . . Yes, that's right.

Q Isn't that precisely what happened in 1968-69 in that area of the County, there was freedom of choice for all grades except grades seven and eight in that section of the County?

A I think that's correct.

Q And grades seven and eight at that time were assigned to the Enfield School?

A I think that's right.

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

A There was only one grade in the 1969-70 school year assigned to the Enfield graded school from the Inborden School.

Q (Mr. Bourne) Now at the time this plan was submitted, of course, the freedom of choice period for the 1969-70 school year had not been adopted, is that correct?

A No.

Q Had not been carried out?

A No.

MR. BOURNE: I think that's all.

EXAMINATION BY MR. CREW:

Q Mr. Moore, the Supreme Court has held in its recent decision that it is more concerned with the end result of the various methods used by the school boards than the methods—and by end results meaning the amount of segregation over integration in the schools. I ask you if in your opinion the plan about which you have been extensively cross-examined, if that had been approved by the Justice Department if the end result

would not have been you would have had more integration in the schools of Halifax County than you have ever had before?

A Yes.

Q And that plan was turned down by the Justice Department?

A Yes.

Q And the day that it was turned down the School Board then adopted freedom of choice for the school year 1969-70?

A Yes.

Q And I ask if the School Board at that time had not waited as long as they could in order to start making their plans for the following year?

A Yes.

Q It is in evidence that the hearing is set for August 25th, and the schools in our County open on or about August 28th. I ask you if it is not impossible and impractical to make substantial changes in the operation of the Halifax County Schools or the Scotland Neck School Unit within two days, that is, from August 25th to August 28th?

A I think that would be impossible.

Q I ask if it would not be extremely detrimental to the education of all children in the County that we attempt any transfer of students or transferring of teachers during the current school year?

A Yes, I think so.

MR. CREW: That's all.

EXAMINATION BY MR. JOSEY:

Q Projecting the plan which you submitted and which the Halifax County School Board submitted to the Department of Justice in February of 1969, with particular regard to the Scotland Neck School and in regard to the Enfield School, taking the—taking the total number of students which the Halifax County School Board anticipated would—that is, the number of Negro students that they anticipated would select the Scotland Neck School and the Enfield School based on the freedom

of choice in the grades where they had a freedom of choice, and based on what the—the number of students, Negro students, that would be assigned to those white—each of those white schools, that is, the sixth, seventh, and eighth grade in Scotland Neck and the seventh and eighth grades in Enfield, and further considering the projection of white students which would be—would not be in attendance in the public schools for the year 1969-70, did not the Halifax County School Board anticipate that those two schools, Enfield and Scotland Neck, as well as every other white school, predominantly—formerly predominantly white school in the County would be at least in the neighborhood of fifty percent Negro and fifty percent white by the time that the school doors opened in 1969-70?

A That was our opinion, yes.

Q So, based on the previous experience and on the knowledge that the School Board and the Superintendent and Assistant Superintendent had at the time that this plan was submitted, if the plan had been implemented, if the plan had been accepted by the Department of Justice and had been implemented in the Fall of 1969, wouldn't it be fair to say that the projection was that there would not be a predominantly white school left in the County?

A Yes, sir.

MR. JOSEY: All right. I believe that's all.

MR. CREW: That's all.

(FURTHER DEPONENT SAITH NOT)

* * * *

DR. CRAIG PHILLIPS

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. KENNEDY:

Q State your name and occupation, please.

A Craig Phillips, State Superintendent of Public Instruction.

Q How long have you been State Superintendent?
A Since January third, 1969.
Q How long have you been a professional educator?
A Since 1943, when I acquired my first degree in—my A.B. degree in teacher education.
Q Do you have a PhD or doctorate?
A A doctors in education, yes, sir.
Q After you got your doctorate were you a superintendent—were you a principal first?
A No. I had been a principal and when I got my doctorate I moved into the assistant superintendency in Winston-Salem, North Carolina, and subsequently at Charlotte-Mecklenburg.
Q During the time you were at Winston-Salem was there a merger between the school units of Winston-Salem in Forsyth County?
A No. There was not while I was there.
Q Pardon?
A There was not while I was there.
Q Did that occur before or after you left?
A After I left.
Q Did you assist in planning for that?
A Worked on the staff in planning for that, yes.
Q In general, were there educational advantages that resulted after the merger of the two systems?
A I was not there when the merger did take place. It took place two years after I left.
Q When you were planning for the merger, did you anticipate that there would be educational—
A Yes.
Q —educational advantages?
A Yes.
Q In general, what were some of these advantages?
A Curriculum improvement, staff improvement, better utilization of staff. Better decision making concerning location of facilities, basically those things which would normally come with more efficient organization.
Q Prior to the merger what were the approximate pupil populations for the respective units?
A Somewhere around—I'll have to guess because I'm not—don't recall exactly. Somewhere around twenty-five

or thirty thousand in Winston-Salem and about fifteen or eighteen thousand in Forsyth County.

Q After you went to your position with the Charlotte-Mecklenburg System had that already been merged by the time you got there?

A Yes.

Q Is the position you now hold as State Superintendent an elected one?

A Yes.

Q Did you participate in any of the study or research that went into the report known as the Report of the Governor's Study Commission on the Public School System of North Carolina?

A Yes.

Q Was that report published around December 3, 1968?

A Yes.

Q Does the report—are the names of a number of the persons and their positions, who worked on the report, published in the body of this document?

A Yes.

Q Do you know if any group of professional educators in this State, whether with the State Department of Public Instruction or the Board of Education, or with any of the universities, or otherwise, who disagrees with the results of the Governor's Study Commission Report?

A There's been some general disagreement with some elements of the report, but the main report has the overall endorsement of most of the educational professionals in North Carolina.

Q Do your know what some of the areas of disagreement are?

A How specific do you want me to be? . . . Some of it had to do with financing programs. Some had to do with some disagreement on the actual merger of school systems.

MR. JOSEY: Let me interrupt. We of course agree on that stipulation that we always agreed to?

MR. KENNEDY: That's right. The stipulations are the same ones that occur at the opening of the deposi-

tion with Mr. Overman which was taken about two weeks ago, I believe on a Monday.

MR. JOSEY: I just want that in the record.

Q (Mr. Kennedy) Has the State Board of Education of North Carolina taken a position with respect to the Governor's Report?

A No, except to receive it as information. To commend the Commission on its work, but no other action.

Q Has Governor Scott spoken approvingly of the report?

A No, to my knowledge. I think he alluded to it in his legislative message, but I'm not sure of the exact wording.

Q Do you know if Governor Scott submitted a proposal to the legislature adopting the studies of the Commission?

A I think in the legislative message. I don't know that they were identified directly as commission recommendations.

Q I take it then that you are generally familiar with the Study Commission's recommendations of merger of schools within units and merger between units and recommendations as to minimum size—

A Yes.

Q —with respect to pupils. Now, with respect to those last enumerated recommendations, namely, the ones concerning merger of schools within units and merger between units and minimum size, do you know of any school educators anywhere in the country that disagrees with those conclusions, recommendations?

MR. JAMES F. BULLOCK: May I interrupt just a moment. I am not acquainted with any of the background on this. Dr. Phillips, Mr. Moody had to be in Washington and asked me to fill in. Would you please give me just briefly the purpose of the meeting here?

MR. KENNEDY: Yes. This deposition is called by the plaintiff, the United States of America, in the case that the Government has against the Halifax County Board of Education, the Mayor, Board of Commissioners, and the Town of Scotland Neck, North Carolina. Dr.

Phillips has a copy of the complaint that we filed, which he is now showing you. And we have taken some other depositions of school officials at the local level.

MR. JOSEY: This doesn't have to be on the record.

MR. KENNEDY: Off the record.

(DISCUSSION OFF RECORD)

A I am not aware of any specific objection of any specific groups. This is all I know.

Q (Mr. Kennedy) So would it be fair then to say that professional educators across the country, and including those in this State, with those exceptions as you have already mentioned, generally favor merger between units and across unit lines and favor minimum size as stated in the Governor's Study Commission Report?

A I am not sure that I can speak nationally because we've got so many different kinds of organizational patterns. I think so far as the State is concerned this is a fairly general educational consensus.

Q Now within the State Department of Public Instruction you have a Division of School Planning?

A Yes.

Q Can you briefly describe that, what this division does?

A This division is staffed by a director and the people concerned with engineering-architectural services, plus educational consultants. And the basic function of the staff is to respond to the requests from local school systems for, in the main, facility service of the school system involved. It is a service of the agency and comes specifically upon request from the local school unit for these services. And, in the main, it is concerned with physical facilities and long-range planning.

Q Have there been surveys in the last three years in which the Division of School Planning has suggested or recommended possible merger between school units?

A In the State?

Q Yes, sir.

A Yes, I think there have been several.

Q Are you familiar with the school survey involving Tyrrell County, made in May 1968?

A No, I am not. I have not read that one.

Q Do you know what the recommendations are?

A No, I do not. I haven't seen this.

Q Are you familiar with the recommendations in the survey done for Durham City and Durham County, 1969?

A I have not read that.

Q Are you familiar with the recommendations made in the Survey of the Halifax County Administrative Unit?

A Yes.

Q Do you have a copy of that survey?

A Yes.

Q I ask you to turn to pages 15 and 16, and does the interim plan appear on those pages, sir?

A Yes.

Q Are you generally familiar with what is recommended there?

A Very superficially familiar with it in terms of specifics.

Q Do you know of any general or specific disadvantage from an educator's point of view which would result if that interim plan were adopted?

A Just a minor comment. Again, I would support normally the work done by the Division of School Planning in its report. Of course, as it spells out in that report there, there are purely recommendations. There are some diversity of organization that is reflected in the interim plan that could be of concern in terms of the various grade levels recommended in the different schools, but it is based on the facilities available at the particular time. Other than this, I must assume that the planning report was basically sound in terms of the judgment of the staff doing the job.

Q Could you—could you tell us a little more about what you mean by grade organization at the particular school, sir?

A Well, one of the senior high schools recommended for grades ten and twelve, and then grades eight and nine being a separate facility. And then another dis-

trict, grades eight to twelve in the senior high and another ten to twelve. We are also concerned when there is a system of education where there is some inconsistency with organizational structure, but there evidently were basic reasons for this. I want to point out this was made before I came on the job.

Q Do you have any reason on education grounds to question the merger or the pairing of the schools that resulted in these grade organizations?

A You need to define your school merger and pairing. They are two different—

Q As I understand, for instance, in District One, formerly the Brawley School taught grades one through twelve and the Scotland Neck School taught grades one through twelve, but under the district—or the plan for District One only grades ten through twelve would be taught at Scotland Neck and a different set of grades would be taught at Brawley. Now, am I correct in understanding that your question was directed at the particular grades that were taught at any particular campus rather than at the fact of reorganization of the grades between the two schools?

A I think I am simply saying that under the circumstances as reported in the interim plan, I would support the recommendations made. I question always the validity of a distorted organization within a school system itself. This is not organization.

Q By 'distorted organization within a system' you mean that it is inconsistent, as you pointed out, grades ten through twelve at one school while another school has grades eight through twelve?

A This is not the ultimate in a desirable organization, that's right, remembering local problems always exist around the State under a number of circumstances.

Q Are there educational advantages to taking, in Halifax County, the grades, for instance, between Scotland Neck and Brawley and reorganizing them as the State Survey has done?

A Are there advantages?

Q Educationally, yes, sir.

A I would have to assume that as an interim plan this—this was the best recommendation that could be made by the panel of judges who took a look at the system.

Q Has anybody pointed out to you any reason to question this particular recommendation by the survey team?

A I haven't discussed the interim plan with anyone.

Q Have you or did you discuss the possibility of a separate school system for the Town of Scotland Neck prior to the time that the Scotland Neck school bill was introduced into the Legislature in January of 1969?

A Did I discuss?

Q Yes, sir.

A Yes.

Q With whom did you discuss?

A With representatives from the Scotland Neck community.

Q Was this Mr. Josey and Mr. Harrison, who are present here in this room?

A Yes, Mr. Josey and Mr. Harrison. I'm not sure how many were involved. There were a number of names. I'm sure it is a matter of record. There were about five or six in the group that discussed this.

Q Do you have a record of who was here, who talked to you?

A No, I don't believe I do.

Q Do you recall who contacted you to arrange the meeting?

A Either Mr. Harrison or Mr. Josey, or one of the representatives, and I'm not aware of this. I don't recall it.

Q Did any person in the group explain the reasons why a separate school system was sought for Scotland Neck?

A Yes. This was discussed in the conference.

Q Other than these gentlemen that you have mentioned, and yourself, who else was present?

A Let me ask you this, Mr. Bullock. I have no specific records. Do I recollect as best I can?

MR. BULLOCK: If he's satisfied with your best recollection.

A There were several members of the staff, Mr. Kennedy. Mr. Davis was there, as I recall it, and I think Mr. Melton, assistant superintendent, was in attendance. I'm not sure. I would support whatever anybody else said about who was there. We did not keep a specific record because it was an informal conference.

Q (Mr. Kennedy) For the purpose of the record, Mr. Davis is the controller?

A For the State Board of Education, yes.

Q What were the reasons given for desiring a separate school system for Scotland Neck?

A There, again—

MR. BULLOCK: If you don't know, you don't know.

A I would have to be speculative in terms of the basic reasons I believe. Educational advantages for the youngsters in Scotland Neck were discussed at length. Tax support, possible tax support, that was not available under county-wide support was discussed. Simply, concern about the quality of education for the youngsters involved in Scotland Neck was the major discussion point.

Q (Mr. Kennedy) Was there discussion of an arrangement between the Halifax County Board and the Department of Justice concerning the desegregation of the Halifax County Schools?

A No, this was not discussed in the conference, at any in which I participated.

Q Was there any discussion of the number of white and Negro children in the County?

A Yes, the statistics of the County were discussed, and the pupil population.

Q Who brought that up, sir?

A I don't know.

Q Was there any discussion of the white and Negro —of the number of white and Negro students that the proposed Scotland Neck system would have?

A I think these statistics were discussed, yes, sir.

Q Was there any discussion as to the number of white and Negro students who might be going to the Scotland Neck School or the Brawley School as a result of a re-

organization plan involving geographic zoning or pairing of grades?

A I don't recall any discussion on that, no.

Q Was there any discussion about the interim plan as suggested in the Survey?

A No, it was not. In fact, this material was not there at the time, as I recall.

Q Were you aware at that meeting that arrangements had been made between the Department of Justice and the Halifax County School System to provide a desegregation plan that would completely desegregate the Halifax County system by September 1969?

A I had very little knowledge of any of the deliberations at that point. This was shortly after I came on the job.

Q Was there any discussion of private schools, either in Halifax County or very near to Halifax County?

A Private schools were discussed in terms of the movement across eastern North Carolina, the general pattern of movement, as I recall.

Q When did that movement start, sir?

A I do not know.

Q Was there a discussion of possible withdrawal of students from the schools in the Scotland Neck area if there was a further increase of desegregation?

A Concern was expressed, yes.

Q By you or by the other gentlemen?

A Just in the general discussion.

Q Is it your understanding that this concern was one of the motives behind the suggestion for a separate school system?

A No, I don't know that for a fact.

Q Were there any statistics or numbers of students mentioned who might possibly withdraw to the private schools?

A I don't recall the figure, Mr. Kennedy.

Q Was there any discussion about an educational survey which might have been done to disclose the advantages for a school system the size of the one for Scotland Neck?

A Could you repeat that one?

Q Were there any—was there any discussion of a study by any person calculated to uncover educational advantages which would come about once the separate school system for Scotland Neck was created?

A I don't recall mention of such a study.

Q Do you now know whether such a study has ever been done?

A No, I do not.

Q Has anybody ever mentioned to you that such a study would be done?

A No. I know of no such study.

Q Did you express an opinion to the group, professional opinion, with respect to the educational advantages for a school system the size of the one proposed for Scotland Neck?

A Yes. I expressed a concern about this.

Q What were—what were your statements as best as you can recall them, sir?

A They generally paralleled the kinds of things that were reflected in the recent study made by the Governor's Commission which related to minimal optimum sizes of both schools and school systems. They also reflected a general personal philosophy of mine that lends toward the general merging of school systems where local acceptance and local responsibility were a part of that merger.

Q Was there any discussion or—strike that question, please. Did you direct any remarks concerning the possible effect on desegregation which the creation of the separate school system would bring about?

A I think the only thing that I could be specific on was to recall that—my concern about the eventual ratio of black and white youngsters in the remaining county system. This is the only thing that I recall expressing directly.

Q What—in what ways, what kinds of things, if any, did you think about, well, would occur if the Scotland Neck system would be created? I mean I address my remarks to what kinds of things would occur in the County

School System if the Scotland Neck School System were brought to fruition.

A Again, I do not recall the specific things that were said. I'm sure they related to the—accentuating the problem of the majority, the black majority, school size, which is a problem of our local northeastern section of the State. I think they reflected the possible loss of community support in terms of the power structure base of any community that would give normal support to increased resources so far as financing interests were concerned. I think these were the things that were discussed in that context.

Q Were your remarks addressed to the group in your capacity as the highest elected educational official in the State of North Carolina?

A Well, I met with the group as the State Superintendent of Public Instruction, yes, at their request to discuss the issues involved.

Q You had mentioned a few questions back that it was your personal philosophy I think, that you had a personal philosophy with respect to mergers of schools and units I believe. Is that also your philosophy as an educational educator?

A I expect the term, better than personal—substitute the word 'professional' for 'personal'.

MR. CREW: What was that answer?

A I substitute the word 'professional' for 'personal'. This is what you were asking?

MR. KENNEDY: Yes, sir.

Q (Mr. Kennedy) How long did your meeting last with this group?

A I'd have to guess. I assume an hour, an hour and a half. Anybody's guess is as good as another.

Q Did you make any notes?

A Not at that session, no. No.

Q Did you write any letters?

A No, I don't think I wrote any letters.

Q Did you have any other meetings with these persons or have any telephone calls or conversations with any of these persons after that?

A I'm not sure of the record. I'd have to check my own calendar and see if it's there. I'm sure there were telephone conversations over a period of time discussing the pros and cons. I have no actual record of these contacts.

Q Do you know whether any Negro persons anywhere in the State of North Carolina were in favor of the creation of the separate school system for Scotland Neck?

MR. JOSEY: May I have that again.

Q (Mr. Kennedy) Do you know if there were any Negro persons anywhere in the State of North Carolina who expressed themselves in favor of the creation of the separate school system for Scotland Neck?

A Not to me, no.

Q Were any of these persons who talked to you on behalf of creating a separate school system Negro persons?

A No.

Q Did any of these persons who met with you indicate that they had sought the support of Negro persons?

A I recall a comment being made by one of the participants—I'm not sure which—that it had been discussed with some of the Negro leadership of the Scotland Neck community.

Q I believe it is true, is it not, that the—a bill to create a separate school system for Scotland Neck was introduced sometime in the latter part of January 1969?

A I think that is right, yes, sir.

Q Did you have occasion to testify either to the Legislature or to a committee of the Legislature about that bill?

A I appeared before the House Committee on Education, yes.

Q Did you have prepared remarks or did you have any written prepared remarks?

A I spoke from some notes that I had prepared for that presentation, yes.

Q Do you still have those notes, sir?

A Yes.

Q Can you give us the general direction of your remarks? Were they against the bill or in favor of it?

A They were opposed to the bill.

Q Were any of your reasons the same reasons that you have just told us about, that you gave to the group who met with you earlier?

A They were basically the same.

Q Do you know of any other professional educators who testified with respect to the Scotland Neck bill?

A Not to my knowledge.

Q Is it true, then, as far as you know, the only professional educator who testified before the Legislature, yourself, was against the bill?

A To the best of my knowledge.

Q Do you disagree on educational grounds with the recommendations of the Governor's Study Commission Report or any of them?

A I signed the Governor's Commission Report as one of the seventeen member commission and gave it my endorsement.

Q Assuming that there exists a rural school system of approximately ten thousand pupils, and assuming that there was a proposal to carve out of that system a smaller unit of approximately a thousand pupils, do you know of any educational advantages that would result from such a move?

A No. I could not specify any.

Q In general, are there advantages, educationally speaking, in the operation of a school system with ten thousand pupils over a school system of one thousand pupils?

A It is my opinion that there are, yes.

Q Are some of these advantages set out in the Governor's Study Commission Report?

A Yes.

Q Might one of the advantages be efficiency of operation?

A Yes.

Q Is another one a lower per pupil cost of operation?

A I would not consider that an advantage, per se. An educational advantage.

Q Is one of the possible advantages the assignment of teachers to their major fields of study?

A Yes.

Q In their major fields of study?

A (Witness nods in the affirmative)

Q Is there another advantage possibly, a larger number and a greater variety of subjects and courses offered?

A Yes, if appropriately organized.

Q Do you find in the larger system, that is, the ten thousand pupil system, a greater effort made or a greater amount of special educational services than in the smaller system?

A Let me see. This is not automatically true simply because of the size. There are smaller school systems that are more efficiently organized, better financed, and better supported. There is not an automatic upgrading of efficiency simply on the basis of pupil population.

Q Are you familiar with a publication entitled "Organization of the School System in Georgia," by a man named Mr. W. C. McClurkin?

A I know the name Mr. McClurkin. I do not know the Georgia study.

Q Yes, sir. Wasn't that publication used in the Governor's Study Commission Report?

A I think Mr. McClurkin was quoted. I was not aware that it came from that study. I would have to check the reference.

Q Is he generally regarded among professional educators as himself a professional educator? Is he a—

A Yes.

Q And is he generally regarded as a competent leader in his field?

A Yes.

Q Would you regard him as an expert in this field?

A Yes.

Q Since January of this year have you made any public statements with respect to the possible effect on the desegregation of Halifax County Schools that would come about if the Scotland Neck bill were enacted?

A Let me get you to repeat that one again.

Q Have you expressed yourself publicly since January 1969 concerning the effect that the Scotland Neck sep-

arate school system would have on the desegregation of the schools of Halifax County?

A I have expressed on numerous occasions my concern as State Superintendent about the creation of the Scotland Neck unit, both before and after its creation by the General Assembly. I don't recall, except in one instance, the television appearance—I don't know what the date was, but you can check the date—where a question was asked by one of the panelists who—my opinion of the relationship of this move to the problems of desegregation and to the best of my knowledge I did indicate a concern about its impact on the total problems of the northeastern section of North Carolina, and specifically Halifax County.

Q In general, would the creation of such a school unit ameliorate those problems or would they accelerate the problems?

A Well, I would repeat what I said a little while ago, that, my opinion, it would accentuate the problems of the majority, black majority school unit.

Q Has anyone asked either your office or the Division of School Planning for assistance in setting up the Scotland Neck School System?

A Yes. We have had numerous requests for help, and throughout the Department, in terms of creation of the unit, in terms of curriculum problems, financing problems, staffing problems, the normal requests that would come from a school unit to the Department.

Q Whom, or to whom or to what office are curriculum problems addressed?

A We have an assistant superintendent for program service, and he would coordinate the efforts of our professional staff.

Q Do you recall his name?

A Dr. Jerome Melton.

Q Going back for a moment to the January meeting you had with the advocates of the Scotland Neck School System, was there any discussion at that meeting about charging tuition to students residing outside the limits of the school system?

A Yes. Tuition was discussed, and I think that the major discussion referred to how it could be done and whether it could be done legally.

Q Well, was there any indication as to the race of the majority of the students who would be paying tuition or possibly be paying tuition?

A No, not to my recollection. I recall that it was discussed. Tuition is always discussed as always open to all.

Q Was there any discussion of the legal effects of charging tuition, the legal problems involved in charging tuition?

A Not to my knowledge.

Q Would the tuition be available to persons transferring from without, outside the Scotland Neck Unit to inside the unit? Is that how it would work ?

A Yes. Tuition is—the charging of tuition is allowable in any school administrative unit for children coming from outside the unit into that unit.

Q Well, was there any discussion of possible legal problems under federal law by allowing children outside of Scotland Neck to transfer into Scotland Neck?

A No. To clarify the answer—

Q Yes, sir.

A The legality of charging tuition was discussed with us and the question was asked about this legality, and this answer was that it is legal for a school system to charge tuition—if this is the legal element you're talking about.

Q I ask that one and I also asked was there a discussion of the legality of merely permitting students from outside the system, that is, outside, of the Scotland Unit, to come into school in Scotland Neck?

A The question of legality of the allowing of children coming from outside the unit into a unit on the basis of tuition was discussed.

Q Without tuition?

A Without tuition?

Q Yes, sir.

A I don't recall any discussion of that.

Q Was there any discussion of the effect on desegregation by allowing non-residents of the Scotland Neck System to come—to go to school within the Scotland Neck System?

A Not to my knowledge, a direct allusion to that. I'm not sure I understand your question.

Q Well, taking the number of pupils in the—or who will be in the Halifax County Administrative Unit this fall under current projections and the number of students projected to be in the Scotland Neck System this fall, and then further dividing them by race, if I were to tell you that approximately 300 white children would transfer from the Halifax County Unit to the Scotland Neck Unit and no more than about 40 Negroes from the Halifax County Unit to the Scotland Neck Unit, would that—

MR. JOSEY: We'd better put you under oath.

Q (Mr. Kennedy) —would that add or detract from the desegregation problems facing the Halifax County Unit?

A I repeat what I have already said twice: that any increase in the majority figure in the racial makeup of a school system accentuates the problems from a standpoint of simply the operation of the school system, and this is the problem recognized nationally—the majority school unit.

Q At your January meeting before the bill was introduced was there any discussion of a special taxing district for Scotland Neck or for an area encompassing Scotland Neck?

A Yes, the specific questions were asked and answered about the creation of the special tax district, how this would be done. We did discuss this with the participants.

Q For clarification of the record, in general, can you tell us how such a district is created? You don't have to go into any great detail.

A I think the discussion here was fairly simple because you're talking about the actual site of the Scotland Neck District and the creation of a tax district for purposes of, school purposes, supplementation, of a school system, the creation of the framework for a vote, tax

vote, to authorize up to a limit of special taxation for supported public schools of that specific tax district.

Q Can a tax, special tax—can a special tax district be created within a school administrative unit?

A Yes.

Q Can that be created without requiring the additional creation of a separate administrative unit?

A It is my understanding it can. Of course, that is spelled out in the public school laws of North Carolina.

Q Was—did you express an opinion as to the advisability of—concerning a special tax district over a separate administrative unit for Scotland Neck?

A We discussed the possibilities of the creation of the tax district and this was discussed also in the legislative hearing as one means of additional financial support, but not in lieu of any particular—

Q Did you make any recommendations with respect to a special tax district for Scotland Neck?

A No, because I also professionally have some major concerns about the creation of special tax units within the school units.

Q Would you tell us what they, what are your educational reservations?

A Well, simply, again the disparity between the educational opportunity within a unit where the local tax district has available more supplemental tax dollars for education. This is another pattern in the State and is a part of the recommendations here, with the hope that we can consolidate the special tax district.

Q If you had to make a recommendation for a choice between—on the one hand—a separate school administrative unit of approximately one thousand pupils and, on the other hand, a special tax district for approximately one thousand pupils, which would you recommend?

A I would not recommend either. I think the separate tax district—again, from the viewpoint of the State, and this has to respect the local prerogative in making that decision, which is basic in North Carolina—the separate tax district would probably be the lesser of the two in terms of impact, change from an organizational standpoint. It still would pose some problems in my opinion.

Q You told us earlier that you had some notes of your comments to the Legislature on the Scotland Neck bill. Could you make those available right now, sir?

A Is this in order? I have them in my Scotland Neck file. They are rough notes.

MR. BULLOCK: Yes. They were of public record, were they not?

A The meeting itself was a public meeting.

MR. KENNEDY: Could we take a break and get those?

THE WITNESS: Yes.

(RECESS)

Q (Mr. Kennedy) Do you now have the notes that you used to give your remarks to the legislative committee?

A Yes.

Q On the Scotland Neck bill?

A Yes.

Q Does that have at the top "Halifax County Notes"?

A Yes.

Q Does that encompass some two and a half typed pages?

A Yes.

Q Is there also written on the first page and the last page some handwritten notes, in addition to the typed notes?

A Yes.

Q Did you write those handwritten notes?

A Yes.

Q Do these notes and does this outline encompass the substance of your remarks to the legislative committee?

A Yes.

Q Dr. Phillips, do you recall whether you gave—you made comments with respect to each of these numbered and lettered note headings?

A I did not go into near the detail that is reflected in the five major points. I must assume that I touched briefly on most of it, yet I do recall that I cut short comments that I did give.

Q To your knowledge was there any stenographic recording or any other recording made of your remarks to the Legislature?

A Not to my knowledge.

Q Are these notes and is this outline a fair summary of the remarks that you did give?

A Yes.

Q Do you know when the last separate administrative unit was created in this State prior to 1969?

A 1954, I believe is correct.

Q Do your notes reflect the number or the drop in the number of separate administrative units in the State in the last few years?

A Yes.

Q Is that a drop from 178 to 157?

A At the time of these notes I had it—seventeen had been discontinued. And this went from—I think the highest peak was 177 school units. And this dropped it to a hundred—17 was the figure I picked up somewhere, in terms of having been discontinued, since the peak was reached. It is now down to a hundred fifty-five I think—the latest official count, schools. To clarify, at this point, as I recall there were a hundred fifty-seven school units in existence at that particular time.

Q Was there a merger which would account for the lessening of the number from 157 to 155?

A There have been two mergers since this time. One at Burke County and one in Cherokee County.

Q Was that a merger between a city unit within the county and—

A These were two city units within county units in both circumstances, moving from six units to two units.

Q And has there been the creation of the Scotland Neck System and the Littleton-Lake Gaston and the Warrenton systems?

A Yes.

Q Did you express any opinion to the legislative committee with respect to the Warrenton and Littleton-Lake Gaston school districts?

A I was not aware of the Warrenton and Littleton-Lake Gaston. I did not appear on those two cases as

they were presented to the General Assembly. I was present at the Littleton-Lake Gaston hearing but did not testify.

Q Were you in favor of those bills or against them—this bill?

A I did not publicly take a stand. I opposed both in the same light as I did the Scotland Neck.

MR. KENNEDY: Thank you, Dr. Phillips. Do you gentlemen have cross-examination?

EXAMINATION BY MR. CREW:

Q Dr. Phillips, did the Halifax County Board of Education as such at any time advocate directly or indirectly the creation of the Scotland Neck Unit as a separate unit?

A No, sir.

Q I ask you if the problems of Halifax, Warren and Northampton Counties are not—and other counties in what is called the 'Black Belt'—if they are not different from the problems in the other counties in the State?

A They are different, yes.

Q Is it your opinion that the public schools which we now have, the quality of education in the public schools is superior to that in the private schools that have been created in the last three or four years?

A I will have to distinguish, Mr. Crew. There are a few—there are a few private schools which have been created over a long period of time which in my opinion do basically the same quality job as the evaluative public schools in the community in which they operate. I do not believe that the recently created—and I'm talking about within the last two or three years—I do not believe that the recently created private schools are doing the basic quality job on a comparable basis with the schools in the communities which they serve. This is purely an opinion. There is no basis for this, except opinion. And we do not have statistical evaluative data that is reasonably available to make this kind of comparison.

Q Is public support of the parents and the local taxpayer necessary for the success of our public schools?

A Yes.

Q I ask you if in your opinion the orders for immediate and total desegregation have encouraged the building of private schools in many areas in the State?

A It is my observation that it's had its effect on this movement, yes.

Q Is it detrimental to the education of a child that during the school year that he be switched from classroom to classroom or from school to school by court order or otherwise?

A Would you repeat that one?

Q I ask if in your opinion it is detrimental to the education of a child or children that there be drastic changes during the school year which would force them to be switched from one school to another or from one classroom to another, or from one teacher to another teacher?

A Normally, movement of this sort would be detrimental to the youngster involved.

Q From the administrative standpoint is it easier for school officials to plan during the school year for changes to take place the following year?

A Yes.

Q Now I believe you have partially answered this question, but of course there are one hundred counties in North Carolina?

A (Witness nods in the affirmative)

Q And there are just about one hundred different school systems, are there not?

A Actually, there are a hundred fifty-five different school systems, yes.

Q And the problems in the smaller counties and larger counties are entirely different, or different?

A The problems are different. I would not use the word 'entirely'.

Q I ask if the acts of civil disobedience which we have in some of our high schools, and disregard for law and order, are not any more prevalent in some of the

larger schools than in some of the smaller schools in the State?

A I think the record would show that the most flagrant problems of student unrest have taken place in the urban communities. Now there is probably some correlation in size of schools, but it's mainly been the relationship with the urban community.

Q And you testified with respect to separate units or special tax units. Dr. Phillips, I ask if many of the opposed units, in particular, were not created for the precise purpose of getting superior education or quality education?

A A number of them were, as I understand the history of it.

Q And the results with the goal of quality education has been good in many of the separate administrative units?

A In some, yes.

Q Yes, sir. Is it more difficult to get qualified teachers to teach in the schools that have had forced integration at a more rapid pace than the parents—than the community wanted; it is more difficult to get your better qualified teachers to teach in those schools?

A It is—the general opinion is that the school leadership in those communities would say that they have difficulty in assigning teachers in schools that have more of the problems that relate to integration.

Q Dr. Phillips, I ask if in your opinion either the Justice Department or the Health, Education, and Welfare Department should attempt to force the implementation of integration at a more rapid rate than the people of the community would accept, would it not result actually in less integration in the Halifax County Unit as such because the net result would be to force more students into the private schools?

A I think the only thing I could answer to that, Mr. Crew, is the same basic answer to the problem of the majority black unit, and there has been a tendency, as I look at the statistics of these systems, for some exodus on the part of white parents of white youngsters because of the problems of the majority unit.

Q Are you familiar with the recommendations for some consolidation of schools in the Halifax County System, some consolidation of some of the high schools?

A Yes, sir.

Q In your opinion would integration be more acceptable and easier to accomplish after this consolidation program has been completed?

A I'm not sure I can answer that, Mr. Crew. Could I go by it one more time, and let me be sure that I know the question exactly.

Q There is a proposal which has now been acted on by the local board to consolidate three or four of the high schools in the southwestern part of Halifax County in which the population is pretty well mixed. I believe the plan would be for one high school to replace these four high schools. In your opinion—of course these buildings are not in existence now. Once these buildings are completed, that consolidation could be accomplished. I ask if in your opinion integration as required by the courts would be easier at that time than now?

A I think the record would probably show that where new facilities, adequate facilities are available, that integration of pupils, staff, and community are easier to accomplish, and this I think would be demonstrated by a number of school systems.

Q And is it not a fact that members of both races have shown some resentment of being transferred to schools of the opposite race rather than going to new facilities?

A There certainly is a record of a conflict over pupil assignment both ways. I'm not sure that I can assess the social or sociological implications of it in trying to answer that question.

MR. CREW: I believe that's all. Thanks.

EXAMINATION BY MR. JOSEY:

Q Dr. Phillips, I believe you mentioned this taxing district in your direct examination by Mr. Kennedy, and I will ask you if in fact the first time that this taxing district was mentioned in connection with the Scotland

Neck School Administrative Unit formation was in the Legislature with the discussion with the Scotland Neck group?

A I thought we had discussed it in the earlier session. It was discussed in the legislative hearing.

Q But, in any event, this taxing district would more or less tie down a—put a fence around the lines of the school for—and only, basically, only students that lived in that taxing district would be allowed to go to that school without paying some commensurate tuition—wouldn't it?

A I think this is the interpretaton of the law, yes.

Q And there are several taxing districts, school taxing districts in the State presently, isn't that correct?

A Yes.

Q And only those students that live within that physical tax district are permitted to go to those schools unless some special arrangements be made otherwise, isn't that correct?

A I will have to defer to the legal people for interpretation of the law. It's been my understanding that the youngster coming into that tax district with the evaluative tuition paid for him, this would depend on the local—

Q Yes, sir. That would be basically the same; it would create whatever problems that the Scotland Neck School Bill creates with respect to who comes in and who goes out and who stays?

A I don't know. I don't think there is any difference in the pupil assignment.

Q In the taxing district?

A Yeah.

Q Now I believe you said that Cherokee and Burke Counties—there had been mergers in those two counties recently. Did I understand you to say that there were six units totally that merged into two units?

A Three in each county. A county unit and two city units in each of the situations.

Q And they merged into one total county unit?

A That's right.

Q Now what size were they, approximately? Let's say the Burke County—do you recall?

A No. I will have to estimate. I think Burke County totalled about 18,000 to 20,000 in three, that were in the three systems.

Q And what about the Cherokee unit; it's considerably—

A Considerably less. About 1400 or 1600 total.

Q So you end up with a system in Cherokee County which is approximately 1400, which is very—just slightly larger even after the consolidation than that the Scotland Neck Unit would be in any event, isn't that correct?

A That's correct.

Q I believe you stated, did you not, that size of an administrative—school administrative unit does not automatically in itself make a good educational unit, does it?

A By itself, yes.

Q And, as a matter of fact, Halifax County, of approximately 11,000 students, that is a county unit that has existed for many years, certainly since 1936?

A (Witness nods in the affirmative)

Q Is approximately twice the size of—the Governor's Commission Report indicates should be the minimum size, isn't that correct?

A Approximately that, yes.

Q Doesn't the Governor's Commission Report indicate that it should be at least five thousand students?

A It uses the figures for the comprehensive senior high school or comprehensive junior high school of 750 minimum for those two sizes. It calls for the optimum —and again it quotes different pieces of work done on the fifteen to twenty thousand—but it talks about the fact that a large number of the school systems in the State are under five thousand. That is where the five thousand appears in the report. To the best of my knowledge the report does not specify the actual minimum size for the school unit.

Q. So that, with the creation of the Scotland Neck School Administrative Unit of some one thousand, it still

leaves the Halifax County School Administrative Unit approximately ten thousand, which is completely—which will in no way as far as size is concerned be detrimental to the Scotland Neck School Unit or the Halifax County School Unit, isn't that correct?

A The criteria of minimum size is met in terms of enrollment of the county, yes.

Q So that the educational disadvantages, as far as size is concerned, will relate to whatever disadvantages there is as to the Scotland Neck Unit itself, as far as size is concerned, isn't that correct?

A Run by that again.

Q I said by the creation of the Scotland Neck School Administrative Unit, when we come to the mere criteria of size as set forth in the Governor's Commission Report, the only—the only children that could be adversely affected would be the children in the Scotland Neck School Administrative Unit, isn't that correct?

A On the criterion of size, yes.

Q Now, there are other, of course, criteria for educational advantages of school administrative units other than mere size, isn't that correct?

A Yes.

Q What are some of those other criteria that you as a professional educator and as the chief public school official in this State would set up; what are some of the other criteria?

A Well, size itself would relate to the ability to offer a full comprehensive program for the children enrolled. There are some specifics in terms of desirable numbers of course offerings. There are desirable statistics in terms of qualification of teachers and the ability of the teacher to teach in the major field of training and experience. There are administrative criterion in terms of administrative and supervisory criteria, in terms of services to be offered by way of consulting services, in the way of operational services. There are elements involved in facility planning.

Q What is facility planning?

A Facility planning is the planning of the actual school buildings, plus the equipment and space that is

necessary for programming. It has to do with laboratories, shops, regular classrooms, multi-purpose spaces, et cetera.

Q Now, if you as a professional educator go into a school—into a school unit, not an administrative unit but into a physical building that houses—has classrooms and produces students and graduates students, what, as a professional educator, would you say are the methods to determine and test the product which a school is putting out in way of students? How do you go about analyzing what that school is accomplishing?

A Well, this, of course, is a—the most difficult problem we have in eduation, the evaluation of evaluative criteria which had been developed over a period of time, which are reflected in the basic standards established by the most recognized agencies for accreditation, which is the Southern Association of Schools and Colleges, which is a part of the network of eight or nine regional accrediting organizations. The standards set by this organization are the best evaluative criteria we have available. Now these, to be specific, relate to ratio of pupil to teacher, staff assignments, size of libraries, numbers of volumes in libraries, your course offerings, facilities, conditions of facilities, adequacy of facilities—I could go on. There is a brand new Southern Association of Schools and Colleges evaluative criteria which is extremely specific in these measures, and yet they are difficult measures to establish. A good school system is constantly evaluating its effectiveness.

Q Are there any—strike that. Do the tests that juniors and seniors in high school take in a particular school—is that—and the scores that they make on these tests, is that any indication at all of how the school is doing in producing a student?

A In my opinion, Mr. Josey, the use of achievement test scores or any other standard test results is a minimum kind of measure of the accomplishment of the particular schools in which these students are being trained, because there are so many variables in terms of backgrounds of youngsters, because the achievement score is one of the lesser in my opinion of the evaluative measures.

Q Would you say that the number of students that leave that high school and go on to higher education is some indication of what—whether the school is poor or good or excellent?

A Again, I would say this is a minor factor in the measuring of the effectiveness of the school because it is going to be related to the population being served.

Q And do you mean to say that that is a lesser—that you give less weight to that analysis than you would to the number of books in the library?

A I didn't say that. I didn't say that.

Q Well, didn't you indicate that this number of books per student in the library was one of the criteria under which the Southern Association of Schools—if that is the right name—does analyze and more or less grade a school on its standard or set its standard or sets its standard for a school—you did indicate that?

A I said it was one of them, yes.

Q One of them?

A I didn't indicate the degree of importance in my opinion.

Q Well, do they also use—give any weight to the number of—percentage of students that leave that high school and go on to higher education?

A As they do a true evaluation they weigh these results against the basic backgrounds of the community being served and the measurement has to take into account the comprehensiveness of the programs, what has happened in the other units that do not go. I would not minimize the record of an individual youngster who achieves and goes on to college. It is not necessarily a good measure of quality of a high school as such, is what I'm saying, to him.

Q But certainly in a community that has a background which would—which—from which a substantial number of students have for many years gone to college, and if that number decreases without any decrease in their background, it would indicate that the school is not doing the job it should do, isn't that correct?

A I'm not sure I follow your line of reasoning on it. Would you ask it again?

Q Well, I think you said that it depends on the background of the community as to whether or not—how much weight you would give to the percentage of students that graduate who go to college; isn't that correct? Didn't you say that?

A Yeah. I said this would be a measure—let me see if I can clarify this for you. This would be a measure of that phase of the total comprehensive program, of the college preparatory program. There would be no relationship between the value of the college preparatory courses and the number of youngsters succeeding in college. This would be a measure of simply one phase.

Q In your private opinion, in your individual opinion, do you give more weight to that particular category, that is, the percentage of students that graduate who go on to higher education or college, than you do to the number of books in the—per student in the library in determining whether or not a school is what it should be?

A I'm not sure that I can put a weight on it from the standpoint of giving priorities to it. I think you've got to look at the total assessment if you're going to measure what happens. I'm not sure that I can answer that question.

Q But obviously the teacher-pupil ratio is one of the most important things?

A It is.

Q That faces schools?

A Yes.

Q That is, the teachers are—if there are fewer pupils, the teachers have to teach them, the better they can get the job done and the better student they can turn out basically, isn't that right?

A The job that they are doing, that's right.

Q Yes, sir. Now, Dr. Phillips, in your opinion is there any connection with the amount of funds spent per student and the standard that the school attains?

A Pupil expenditure is one of the measures, that's right.

Q As a matter of fact, that is a rather important item, that is, money to hire teachers and money to have the facilities, and money to—without which you just can't get the job done, isn't that correct?

A It is a measure, yes. A very definite measure.

Q And another measure of the quality of a school is the percentage of the teachers who have had prior experience, isn't that correct?

A Experience is a measure, yes.

Q Now, I believe your office got out some statistics just prior to the time that you—maybe six months before you took over this job, called "Profile of Significant Factors in Education in North Carolina, a Ranking of School Administrative Units, July 1968," isn't that correct?

A That's correct.

Q Is that an annual—has it been up to now an annual publication by your office or by this office, or do you know?

A I do not know when it started. I know of the last two years that it has been done.

Q Has it been done for July 1969?

A No, it has not.

Q Do you have any statistics similar to this that are more current than the July 1968 publication?

A Not compiled, no. I think the statistics are available. They have not been put in that form.

Q Now, Dr. Phillips, this document to which I just referred, "A Ranking of School Administrative Units, July 1968," was of course put out by this office last year, isn't that correct?

A That is my—that's right.

Q Do you know the purpose of this publication?

A I will give you my opinion.

Q Yes, sir.

A Its purpose was simply to compare school units in North Carolina in certain basic categories. Its purpose, as I understood it, was not to imply either quality or lack of quality by the establishment of rank; it was actually an assessment of certain kinds of categories of measure, not particularly quality measure, but measure of school units in North Carolina. It was done, as I understood it—I happened to have been a school superintendent or just ending up as a school superintendent when the first one came out—to the best of my knowledge

it was presented as a comparative set of data concerning the categories listed.

Q Well, each of the categories had some connotation of quality or lack of quality, didn't it, in your thinking, and does today?

A Some of the measures in the report have to do with the quality, and I'd have to look at it to give you—some do not have to do with quality.

Q Percentages of classroom teachers with graduate certificates would have some indication that those schools had had—more teachers with graduate certificates would be a little better—ought to be—than those that had fewer, isn't that correct?

A That's correct.

Q And those—the category of percent of the staff with other than A or B certificates would have some connotation in your mind and in the professional schoolman's mind as to quality, wouldn't it—some slight indication?

A Some indication, yes.

MR. JOSEY: That's all.

MR. KENNEDY: I want to mark this as Plaintiff's—Government's Exhibit #6.

(MARKED FOR IDENTIFICATION)

MR. KENNEDY: The parties stipulated that the document marked Government's Exhibit #6, which is entitled at the top, typewritten, "Halifax County Notes", and comprising some two and one half pages, is a true and authentic copy of the original document and may be used in lieu of the original.

(THE FOLLOWING PROCEEDINGS TOOK PLACE ON AUGUST 5, 1969)

EXAMINATION BY MR. JOSEY:

Q Dr. Phillips, I believe that earlier Mr. Kennedy had asked you if you had any notes that were made at the time that you appeared before the various legislative committees when this bill, the Scotland Neck School Bill, was pending before the North Carolina Legislature earlier

this year, and you turned over to him a three-page document which was marked for identification purposes 'Plaintiff's Exhibit 1'.

A 6.

MR. KENNEDY: 6.

Q 6. And as I understand these notes were made as an outline for talks which you may have been called on to give but in fact you never gave these publicly, this entire outline or statements made from the entire outline, did you?

A That's correct. The notes were made specifically for the legislative hearing, the House Education Hearing.

Q And, of course these notes were compiled sometime after the bill was introduced and, of course, were not compiled prior to or at the time that this group from Scotland Neck visited your office, isn't that correct?

A That's correct. They were actually compiled the day before the hearing.

Q I will ask you, Dr. Phillips, isn't it true that your primary opposition to this Scotland Neck School Bill was based on the fact that—that it is a policy—it was opposed to the policy which you feel is the best general policy, and also opposed to the Governor's Commission Report—isn't that fundamentally why you opposed this bill?

A I opposed the creation of the bill built upon by own professional experience and built on the results of the Commission's Study, of which I was a part, and which I help give some direction, but it was—as you indicate my position was built on a belief that we not only did not need to create additional administrative units, but we needed to move in the direction of lessening the number of administrative units in North Carolina.

Q But that does not mean that in a specific case that a school created, the size of—Scotland Neck is now, under this new bill, could not and with the proper support of—financial and personal support, local support, become a better school academically than it has been in the past under the former situation—isn't that correct?

A No. I'm not quite sure I follow you—your question specifically. No, I opposed—

Q Let me—

A Excuse me.

Q Let me rephrase it then. You are not in any way saying or have said in your direct examination that there is no school system of a thousand, or small unit school, administrative unit, which is not in fact better than some of the larger units academically or practical—in any way that you grade them—you're not saying that are you?

A I think the only thing I can say is that I am opposing and would oppose professionally, the position of the State Superintendent, the creation at this moment in history any school system with too few youngsters to provide the kind of program that it is my responsibility to help stimulate.

Q Yes. Now—

A I haven't tried to compare this specific unit which has been created with any other specific units from the standpoint of that kind of evaluation. And I would want to add one other—the Legislature did create within its prerogative a new administrative unit, and the State Department of Public Instruction, which I represent, has served, and is serving, this school unit as it would any other school unit in North Carolina.

Q And, of course, somewhere in 1936 they permitted any unit that had previously been a city unit to remain a city unit or to become consolidated with a county unit; at that time that was a general law passed in the late thirties, is that not correct?

A As I understand it. I do not know the specifics.

Q And, of course, at that time, and for many years prior to that time, Scotland Neck was a city school unit; isn't that your information?

A In general. I haven't studied the history of the State from that standpoint, but I understand this is correct, yes.

Q And do you know—do you have any—from examinations of the schools—the records of the schools since it's been in your—under the State Superintendent of Schools, do you know whether or not the Scotland Neck School as a city unit improved greatly when it came into

A Level of certification basically is one of the criteria.

Q Now, Dr. Phillips, I will ask you to refer to page two of your—of this ranking of school administrative units, dated July of 1968, and ask you if in fact Tryon ranks 59th in the State in that particular category out of a hundred sixty units, Tyrrell ranks 98th, and Halifax County ranks a hundred twentieth—if you will check that, please, sir?

A Those figures are correct, yes.

Q So that would indicate at least in this one small category a unit with 11,000 approximately students is not as high up on the standard in this particular analysis as the two smaller—smaller administrative unit, is that correct?

A That's obvious, yes.

Q I call your attention to page nine, the chart there, which says the percentage of professional staff not having regular teaching assignments, and I will ask you if Halifax County doesn't rank a hundred thirty-ninth and Tryon—or Tyrrell County, a hundred twenty-ninth and Tryon a hundred and eight. Halifax County, a hundred thirty-nine, Tyrrell County, a hundred twenty-nine, and Tryon a hundred eight?

A That's correct. Tryon has three professional staff who are not regularly scheduled teachers, according to the statistics.

Q All right, sir. Now, so at least both Tryon County, or Tryon city school, and the Tyrrell county school rank slightly better in that particular category than Halifax County, is that correct?

A They rank higher—I think you would have to do some interpolation on how those three people were used and what kind of actual assignments they had and what kind of responsibilities they were able to carry, so I would not use the word 'better' here as much as I would the actual ranking in percentage.

Q All right. I call your attention to page 13, which is a table four showing the percent of professional staff paid entirely from local funds, and I will ask you if

Tryon doesn't rank 54th in the State, Tyrrell County ranks 87th, and Halifax County ranks a hundred thirty-fifth?

A That's correct. Tryon has two professional staff paid entirely from local funds. Tyrrell has one and Halifax has one.

Q So at least those smaller units are providing more professional staff from local funds percentagewise than the larger Halifax County Unit?

A That is what the ranking says.

Q All right. And I call your attention to page 17, table five, which shows the percent of classroom teachers with maximum experience for pay purposes. And ask you if Tyrrell County doesn't rank fifth in the whole state, Tryon ranks fourteen, and Halifax County ranks eighty-four?

A Those figures are correct, yes.

Q So there, again, this would indicate that the smaller units had a larger percentage of teachers with maximum experience for pay purposes, isn't that correct?

A By rank, yes.

Q And this, again, is at least in some small degree a measure, some measure of the proficiency of a school?

A No. This particular one might be a negative measure. I think you would have to get into some kind of definition of whether they were community teachers who had lived there all their lives and been there—again, there is no yes or no answer to your question.

Q Well, wouldn't you consider normally across the board the fact that teachers had more experience for pay purposes that they would be somewhat better teachers than those who don't have?

A No. No. No. Do you want any more than just a 'no' or did you want to get into a discussion? . . . No, I do not think that is automatically a validation of—

Q What you're saying is some of the older teachers are really over the hill as far as teaching and imparting knowledge to the students and they are not as good as some of the younger ones?

A Well, if you will compare the maximum "A" certificate indicated people who have their twelve years,

which is maximum, but would have been in 36 years, and compare that individual with a person who has a graduate degree and additional training in the third, fourth, or fifth year, then you've got to then assess what are those statistics. I'm again saying this is not an automatic measure of quality to my standard.

Q But it would at least indicate the teachers in these smaller units are not—the turnover, the attrition, is not quite as great as in the Halifax County Unit, isn't that correct?

A That's correct, yes.

Q For whatever reason?

A Yeah.

Q Now I call your attention to page 21, table six, showing percent of classroom teachers with no prior experience, and ask you if in fact Halifax County with some ten or eleven thousand students has more classroom teachers with no prior experience at all than all but eleven units in the State?

A That is the fact, yes.

Q And in fact Tryon has—is at the bottom of that list, showing that it has none, has no teachers that are teaching there now that have no prior experience?

A That's correct.

Q And Tyrrell County, of course, is in better shape, condition, as far as this particular chart is concerned, or this particular ranking, than—somewhat than Halifax County is. Isn't that correct? They are—

A Tyrrell is number 38.

Q 38. All right. Now I call your attention to page 25, table seven, percent of high school graduates entering college, and ask you if Tryon doesn't rank fourth from the top and Tyrrell a hundred thirty-fourth from the top and Halifax County a hundred sixty-second from the top in that category?

A Those figures are correct.

Q So there, again, this would indicate that the two smaller schools, the two smallest in the State, are at somewhat higher standard for that particular category of ranking than the school administrative unit of Hali-

fax County which has approximately eleven thousand students, isn't that correct?

A It says that they have a higher percent of high school graduates going to college.

Q Yes, sir. And don't you agree that that has some —that that is some measure of proficiency and the standard of the school?

A It's—it's two things. It's a measure of the college preparatory program, but you've got to go one step further and look at the results of what happens to the youngsters, but it's also an indicator of the kind of school that it is in terms of its major focus. These are two factors, and again you would have to weigh these closely.

Q Of course Tyrrell County basically is agriculture, isn't it?

A Yes.

Q It's similar to—maybe not the same type of agriculture, but it's the same rural economy, rural people, that—fundamentally that Halifax County is, and it is down in the eastern part of the State?

MR. KENNEDY: Counsellor, is that a question or comment?

Q (Mr. Josey) I ask you.

A Excuse me. Yes.

MR. JOSEY: I think he said 'yes'.

A I said that—yes, that Tyrrell and Halifax were similar.

Q (Mr. Josey) Similar, at least agriculturally oriented?

A They both still have a very low percentage of their youngsters attending college.

Q Yes, sir. All right, sir, now I will direct your attention to page 29, or table eight, showing the percent of high school graduates entering trade, business, or other formal training, and ask you if Tyrrell County doesn't rank sixty-third in the State, Tryon ranks eighty-sixth, and Halifax County ranks a hundred twenty-third?

A Those figures are correct.

Q I direct your attention to page 33, which shows the percent of the 1959 fifth grade graduating in 1967—I

believe that table nine, on page 33, shows only the county units, isn't that correct? It does not show the city units, but I think it is just—shows the total county figure?

A Yes, it is based on total county, that's right.

Q And I will ask you if in fact Tyrrell County doesn't—if it doesn't rank in this particular category thirty-second out of a hundred counties and Halifax County ranks ninety-sixth out of a hundred counties?

A Those figures are correct.

Q Now I direct your attention to page 49, table fourteen, which shows the pupil-to staff ratio, and ask you if that staff ratio—does that mean teacher or teacher and administrative personnel, or do you know?

A It is total—total personnel.

Q Total?

A Yes.

Q Paid professional people?

A That's right.

Q I will ask you if in that particular category if Tryon doesn't rank thirty-first in the State, Tyrrell County ranks sixty-ninth, and Halifax County ranks a hundred thirty-eight?

A Those figures are correct.

Q All right, sir. Now I direct your attention to page 53, table fifteen, number of library books per pupil enrolled, and I will ask you if Tryon City Schools, if that doesn't rank twelfth out of all the units in the State, Halifax County ranks a hundred fortieth, and Tyrrell is at the bottom of a hundred sixty?

A Those figures are correct.

Q Now, I direct your attention to page 89, which is table twenty-four, per pupil expenditure of local funds by the administrative unit, and ask you if Tryon does not rank forty-eighth in the State, Tyrrell County ranks a hundred ninth in the State and Halifax County ranks a hundred twenty-fifth in the State?

A Those figures are correct.

Q Now, Dr. Phillips, I direct your attention to table thirty-three, which is local property taxes for schools, percentages of property taxes for all purposes, and ask

you if in fact Halifax County is just at the median, maybe slightly below the median, in the entire State in that category?

A Halifax ranks sixty-second, that's correct.

Q And I believe the median and the percentage is forty, point eight percent of the taxes in—of all the taxes that are levied in Halifax County that goes towards schools, that is forty, point eight percent, isn't that correct?

A That is my understanding.

Q And the median for the State I believe, as shown at the bottom of the page, is forty-two, point eight?

A Yes, forty-two, point eight.

Q So, in spite of the fact that Halifax County, at least on what it has, taxes its people for schools about the average of the State; it is certainly far below the average in many of the categories of excellence, of performance, and certainly as evidenced by this profile of significant factors in education?

A The rankings which we have gone through are consistently lower than the ranking as relates to local property taxes from schools as relate to property taxes for all purposes.

Q Unfortunately some counties are just poorer than others, isn't that correct?

A Yes, some are poorer.

Q In the evaluation of taxes?

A Some could make a lot more effort than they make. That doesn't show in the rank.

Q And I take it, too, that some counties value their property lower than it should be?

A Yes.

Q And so this is based on the valuation and the valuations vary?

A They do vary, yes.

Q From county to county?

A Yes, considerably.

Q Now, Dr. Phillips, getting back to the question that I started—by the fact that you were opposed to the creation of this Scotland Neck School Bill, that does not mean to say that you feel that this Scotland Neck School

Administrative Unit cannot possibly improve the education of the children that will attend this school over what those children had last year and the year before, and in previous years, do you; you're not saying that?

A My opposition to the creation of the unit was built upon my belief and the inability of a school unit that size to provide the kind or comprehensive program which should be available to the youngsters. I made no comparisons in terms of what they have now and what they might have tomorrow.

Q But what you're comparing is what you would like to see happen in that area if there were sufficient funds and money and buildings, and that type of thing, as compared to what Scotland Neck Administrative Unit is today—isn't that basically what you are comparing the Scotland Neck School Administrative Unit with, what—on that basis rather than what it was last year and the year before, and the year before that?

A My job by actual law requires of me to interpret the needs of education in North Carolina and because of this my concern would be in terms of what ought to be in the way of educational quality.

Q But—and you took this stand against this thing to some extent ignoring the practical aspects of obtaining sufficient money from whatever source for this Halifax County Unit to accomplish what you felt was in its best interest in the long run, didn't you?

A No. All we can do is recommend what should be in the way of possibilities and this goes back to the school planning division's report itself, which projects the needs, which is our role to play.

Q Do you have any—do you have any opinion as to whether or not the funds could possibly be made available for the long-range plan for the students in the immediate future or in the near future for implementation of the long-range plan set forth in this department?

A You're talking about State funds or local funds?

Q Any funds, from whatever source, would be available, sufficient to accomplish that long-range program?

A My task is two-fold. One, to project as best we can the total needs of this State in terms of a minimum

basic program, and we have to take into account where youngsters are and what money is available. I have no specific ability to assess the ability of that—local units except in the statistics that are there, and have no control over the local expenditures.

Q But even in the—even in the recommendations of this department in that long-range program, even with the passage of a rather substantial bond issue, which is certainly indefinite, there was still a shortage of some six or seven hundred thousand dollars—six hundred thousand dollars with which to implement that program, isn't that correct?

A There was a proposal in this plan, how this six hundred thousand dollars could be funded. In other words, the potential was outlined. And, again, this was our report.

Q Also this would require a county-wide bond issue of substantial proportions?

A That's correct.

Q And that is—would not only cover the physical geographic area which is encompassed in the Halifax County Administrative Unit, but it would also encompass a physical area that extended about the Weldon and the Roanoke Rapids school administrative units, all three of which were at the time in Halifax County political subdivision, isn't that correct?

A That's correct.

Q Well, Dr. Phillips, as an educator do you feel that there is a possibility that the school superintendent of Scotland Neck School Administrative Unit can improve the curriculum of the Scotland Neck School under this new setup over what it has been for fifty years, or the last fifty years, or at any time during the last fifty years?

A Which year are you talking about—fifty years ago or last year?

Q Last year or any—the best year it's had in the last fifty.

A He will have a difficult time. I'm not sure that I can honestly assess what he can or can't do in comparison with what is there today or was there fifty years ago.

The opposition to the creation came based upon our assessment of what we felt could be under a single school system serving the entire county.

Q One of the things that—of course, there again the people of Scotland Neck and the students of Scotland Neck have very little control over whether the whole county—Roanoke Rapids, or Weldon, and the Halifax County units are going to consolidate, don't they, politically?

A Yes, they have their part.

Q But it is a very small part, isn't it, of the total population, of the total voting people?

A Yes, it is a small part.

Q As a matter of fact the property evaluation in the Scotland Neck area is only about five percent of the total of the county, isn't that correct—somewhere in the neighborhood of that?

A I don't have those figures. I would accept yours.

Q But it is a very small percentage?

A (Witness nods in the affirmative)

Q But you do know generally that as far as the voting public in Halifax County—that Roanoke Rapids and Weldon together have approximately fifty percent or a little more than fifty percent of the voting population in that entire county, isn't that correct?

A This is my general understanding. I don't know the specifics statistically.

Q Well, now there are educators, professional educators, in this State and other States who—who agree that some decentralization of the school system ought to take place, isn't that correct?

A I have heard this discussed by a number, yes, and you would have to define decentralization.

Q Well, certainly of the extremely large systems there is a very substantial movement by some educators to decentralize, put under local committees, local control, these schools rather than have them run by a central office?

A No. No, this is not the pattern of North Carolina.

Q Now, isn't Mr. James E. Allen, Jr., the United States Commissioner of Education?

A He is not in North Carolina. You said in North Carolina?

Q In North Carolina, or the United States?

A He is United States Commissioner and was a former commissioner of the State of New York, yes.

Q And he is a rather competent professional schoolman, isn't he?

A He is a competent schoolman. He has differences of opinion with people about control.

Q He has publicly stated, has he not, that decentralization, certainly in certain cases, is what he believes is a proper approach to some of the problems which exist?

A You want to talk about New York?

Q I'm just asking you hasn't he made those statements?

A He's make statements about that in relation to the City of New York, yes.

Q And he also said that I am convinced that the best schools are those where parents and other local people have and take a real interest in what is being taught and what is being hired?

A That is a very true statement. I subscribe to that statement. That is different from a statement of control. If you're talking about physical control—you need to describe what you're asking me, because this is—

Q Well, aren't there some problems which exist in a —in a unit that is physically spread out as much as fifty and sixty miles across and forty miles in north-south depth; aren't there some problems regardless of how large the unit is, in numbers of students that exist, merely because of the physical distances between schools?

A Yes, there are.

Q There are some definite problems?

A Yes. Yes.

Q And, obviously, in a county as big as Halifax County some of the—some of these practical administrative problems, such as county teachers meetings, monthly teachers meetings, things of that sort, are much more of a problem than they could be in a compact city unit,

a county unit, a large unit, approximately eleven or twelve thousand unit?

A I have no knowledge of this.

Q When you say you have not—at least, in this deposition or the evidence given here—attempted to compare a small unit with a large unit in these notes, Plaintiff's Exhibit 6, at least you have some reference under paragraph 4(b) of a comparison of the Tryon School, the Fairmont School, at least a review of these two small city units indicated there, although the notes are incomplete. Now do you recall what—what point that you were going to make at that time?

A Let me correct one—I did not say that I had not compared large and small units. I said that I had not specifically compared the specific Scotland Neck unit with a specific other unit.

Q Yes, sir.

A The purpose in including this item (b) under number four was to—if I had the opportunity to describe two typical small city units in the State. I did not at the moment have the statistics available when I was going over to make the presentation and I did not use this—these statistics are available—but did not in the time involved in the presentation at the House Education Committee even get into the statistics on this Fairmont-Tryon system.

Q Well, do you know—do you have records here in the office to show that—for instance, this first item here you have is number of courses in high school. Don't you have records here that would indicate that Scotland Neck has 39 courses in high school and Tryon has 46 courses in high school?

A These records are available. I don't have them in front of me.

Q But you have nothing—as far as you know that is correct?

A I have no way of validating your figures. They can be validated, yes.

Q But it is quite possible that Tryon, the smallest school administrative unit in the State, has considerably

more, number of courses, than the present Scotland Neck School, high school, isn't that correct?

A This is conceivable. I do not have the figures. I can get them if you like.

Q Well, now Tryon is the smallest school administrative unit in the State at the present time, isn't that correct?

A Leaving out the three that have recently been created, yes. The last estimate I have of the Tryon system is eight hundred pupils. Again, that can be documented.

Q At least Tryon, at the time the Scotland Neck School Administrative Unit was created by the act of the Legislature, by the referendum on April 8, 1969, Tryon was the smallest in the State?

A That's correct.

Q And that is some approximately two hundred students smaller than it is estimated that Scotland Neck will be, isn't that correct?

A If you are using the thousand figure as an estimate of Scotland Neck, yes.

Q Well, now, isn't it—you say you do have figures that would give certain criteria, certain analysis, of the Tryon School?

A Yes.

Q And what—during the 1968-69 school year, what was the second smallest school system that you have, if you recall? Was it Tyrrell County? Have you got some figures that you could refer to on—

A Table ten, I guess it is, page 35 in the 'Ranking in July 1968,' the smallest enrolled is Camden—no, Tyrrell is correct, 1133 in 1968.

Q So Tyron is the—was the smallest at that time and Tyrrell was the next smallest out of all of the units in the State, isn't that correct?

A That's correct.

Q Now I believe that you stated earlier in this hearing that the percentage of teachers with the graduate certificates would be at least one criteria upon which to determine whether—what level a school was on basically, is that correct?

even though they need many more teachers and have many more students, isn't that correct?

A Geography is a problem, yes.

Q So at least to some extent, some of those problems, although they may be minor, would be solved by—would not certainly be as great a problem for Scotland Neck School Administrative Unit as it would be if the Scotland Neck Schools were in the Halifax County System which it has been for several years; some of those minor—distance—problems would be solved, wouldn't they?

A Any problems of distance would be solved, yes.

Q Yes. And under the present setup, under the present law the local school—the local school advisory council have no—almost no authority at all in hiring teachers, in setting curricula, have almost no legal authority or control over the local schools at all?

A They have no legal authority at all, certainly.

Q And in fact just some very few years ago they were changed from district school committees to advisory councils, isn't that correct?

A No, not specifically. The local school units began to move to single district rather than multi-district, but they were not automatically changed from legal school committees to advisory committees. This was opposition of the local situation. In fact many local systems did substitute because of their desire to involve local participants; they didn't substitute the advisory committee for the originally legally constituted school committee, which was a proponent for the employment of personnel, recommendation of maintenance and buildings.

Q Now, a number of the—a large number of recommendations in that Governor's Commission Report, isn't that correct?

A Excuse me.

Q It was a rather sizeable field or area in which the Governor's Commission Report recommendations covered, isn't that correct?

A Yes. I believe there were seventeen basic questions which the Governor asked the committee to study.

Q And wouldn't you say that the Legislature of North Carolina, certainly in the history of the Legislature of

North Carolina, has been—tended towards being extremely liberal in school matters, providing public education, and in going along with educational aspects of the State as compared to many other states in the Union, particularly the southern states—wouldn't you say that's true?

A It would have to be purely one single opinion. Our Legislature has, because of the very nature, the degree of State support in North Carolina has been very much concerned about public education and has basically had a good record in terms of support for the state-wide program. There is still a lot to be done.

Q And yet, of course, there is a lot of new things coming up; there's always a lot of progress that needs to be made every two years, isn't that correct?

A Yes.

Q Now how many of the Governor's—of this Governor's Commission Report recommendations were actually passed into law by the Legislature of 1969?

A I do not have a specific accounting of legislation which fulfilled the recommendations of the Governor's Committee. I would guess approximately forty percent—thirty-five or forty percent of the Commission's report were directly implemented by the Legislature in some form or another.

Q And, of course—

A Excuse me. Could I add one other thing?

Q Yes.

A A great deal of the recommendations did not require legislative action. A good bit of it will be in response, or response to it will be through the State Board of Education within its powers and the local boards of education within their powers.

Q And, of course, one of the recommendations was consolidation of units, smaller units, into larger, more consolidated units, and in fact certain bills were introduced in the Legislature to accomplish this fact and it was rather soundly defeated, isn't that correct?

A Wait. You lost me on your question.

Q One of the recommendations which Mr. Kennedy brought out in his examination of you, that was made

in the Governor's Study Commission, was a consolidation of present school administrative units, particularly the smaller ones, units, into larger units, into larger units, with some mention being made of optimum size or minimum size of five thousand students, isn't that correct?

A The recommendation was that the basic unit for school purposes be the county unit in North Carolina, with a recommendation along with this, that legislation be passed which would make it permissible for county units to merge where two systems were too small to support an adequate system. The legislation was passed to make this permissible.

Q Permissible?

A Yeah. The recommendation was that the county unit be the recognized school unit.

Q But there was also a bill introduced to require—to eliminate all school administrative units under 7,500?

A No, sir. No, there was a bill which called for the elimination of the general control funds provided by the State Board of Education for units.

Q Which would in fact eliminate the unit?

A That would have to be an opinion.

Q Cut off their general control funds?

A Yeah.

Q And, of course, that was not passed?

A That was defeated, yes.

Q Now I believe also that Mr. Kennedy asked you if you knew of any professional school people or groups—I think that was the way he asked it—who were in favor of the Scotland Neck School, passage of the Scotland Neck School Bill, and I believe you said that you didn't know of any?

A That's correct.

Q Well, now, Dr. Phillips, of course you know Mr. Hugh Beam; who is he anyway?

A He is a legislator.

Q Who is—who has spent some odd thirty or forty years as a professional schoolman in this State, isn't that correct?

A Superintendent of Marion city unit, yes.

Q And he was very much in favor of maintaining—he was very much in favor of the Scotland Neck School Bill; in fact, spoke on the House floor for it?

A He did that, yes.

Q And it is your opinion now that he is opposed to the elimination of these small city units, isn't that right?

A He expressed that opinion, yes.

Q And there are a number of others, school people in this State, who are opposed to the elimination of the small city units, isn't that corerct?

A There are some school superintendents and school board members in a number of the smaller units who have strong feelings about the maintaining of their own units, yes.

Q And wouldn't you say that it is because—strike that. And those people you have respect for their honesty and integrity, as well as their professional ability, don't you?

A I have no question about the honesty and integrity of any of the schoolmen. I know I question the capability of some, as well as some would question mine.

Q Now, Dr. Phillips, I believe you said in answer to the last question that you felt that there were some school people, some school superintendents, particularly, that were opposed to eliminating some of the small school administrative city units?

A Their own units, yes; in terms of that, yes.

Q Their own?

A Yes.

Q Now wouldn't you say that there are any school people that have something other than a selfish interest in the position they take along that line?

A No, I didn't say that. I say there were local school superintendents who had concern about losing their own units. I do not know of a single school man, that is, except Superintendent Hugh Beam, who is a legislator, who openly supported the creation of Scotland Neck Unit.

Q Now you know Mr. White, Mr. Vernon White, and he is a former school superintendent, a principal?

A I didn't know Mr. White was a former school principal. I didn't know it.

Q And, of course, he was very much in favor of the Scotland Neck School Unit; you know that?

A I knew he was a legislator. I did not know he was a schoolman.

Q But now you're not saying that the mere fact that some school person, a professional schoolman in this State differs with you in this respect to consolidation that he is not capable; you're not saying that?

A No. You're putting words in my mouth now. Now I answered the question as to whether or not I knew of any specific schoolman or school organization in this State that supported the Scotland Neck Bill, and I said: no.

Q Well, of course, most of them, the vast majority of them were under your department, and when you opposed it, that was going to keep ninety percent of them from opening their mouth in favor of it, wasn't it?

A That is your statement, not mine.

Q Don't you agree with that?

A No. I am elected by the people. I work for the people. I do not employ the school superintendents of North Carolina.

Q But you work—they have to get funds from your office; they also have to get approval for buildings, school budgets, from your department?

A The State Board of Education. I am one member of the State Board of Education.

Q But you are the chief member of that board, isn't that correct?

A No. No. No. I am a member ex officio of that board and I am its secretary. There is a chairman of the State Board of Education. No, I reject—you're putting words in my mouth.

Q But you do agree that what you say in some matter of State policy in regards to consolidation, over not consolidating, has some effect?

A I would hope so, yes.

Q Has some effect on every other professional schoolman in the State, wouldn't it?

A I would hope that my statements would have some effect, yes.

Q And, as a matter of fact, very few professional school people took a position one way or another, didn't they?

A I think that is correct, yes.

Q And, as a matter of fact, the only professional schoolman who spoke against it was you?

A I am legally the State superintendent and by law am charged with that responsibility.

Q When he asked you whether you knew any professional school people who were for the bill or who were publicly in favor of the bill, you said: no, but the truth of the matter is the only person or professional school group that opposed the bill publicly was your office, isn't that correct?

A To the best of my knowledge the only person who appeared in direct opposition was my office, yes.

Q Yes.

A Yes.

Q And, of course, you have explained why that was true?

A (No answer)

Q Well, aren't there a number of professional school people in this State individually who you—who you know who are not in favor of this idea of consolidating units?

A There is a minority of schoolmen in North Carolina who do not generally favor the report of the Governor's Study Commission as it relates to the merger of school units, and these in the main are the men who are involved in some of the small—small units.

Q Well, those that are involved who know about smaller units, Mr. Dussenberry of Tryon, Mr. Talley of Roanoke Rapids, Mr. Beam, formerly of Marion, and others of this caliber who take the position that there is a place for a small administrative unit, you don't—you're not—you don't say that these people are doing it only to protect their selfish personal interest, are you?

A No. No, I respect—you have indicated three names. I respect the two practicing superintendents on their own school system and respect their honesty and integrity.

Q Well, do you have any opinion as to why they favor the retention of those small city administrative units?

A No. They will have to answer that.

Q Sir?

A No. They will have to answer that. No. I can't speak for them.

Q But you do respect their honesty and their integrity and their—certainly their experience and professional knowledge in general?

A The two brackets that you mentioned, mentioned specifically.

Q Yes.

A Yes. Excuse me. I think I ought to correct that 'two' to three practicing men—just Dussenberry and Talley— 'two' is right.

Q Now, Dr. Phillips, there is not one school in Halifax County that has been accredited with the Southern Association of Colleges and Schools, is that correct?

A That's correct.

Q There are some in the State that have been accredited?

A That's correct. There is a school in Halifax County —the Roanoke Rapids school.

Q But that is a city unit?

A Yes.

Q And wouldn't you—wouldn't you to some extent agree that the ability of that—or those city units to raise additional funds had something to do with—that is, Roanoke Rapids—with their ability to become accredited?

A Funds had something to do with it, yes.

Q And, of course, they do raise funds in addition to what funds the county gives them, and the State?

A They have a supplemental tax. I'm not sure what it is. It is on record.

Q And, of course, Scotland Neck, under this new bill, new law, will have a supplemental tax of approximately fifty cents on the hundred dollar evaluation?

A That is my understanding.

Q Which is the maximum permitted by law?

A That's right.

Q And, as a matter of fact, in this School Survey, 1963, which came out of this office just before you came into office, says, on page 29, does it not, that probably

the one best single determinant in the quality program of education is the financial factor; this is not to say that money and quality education programs are synonymous; only that many aspects depend largely on adequate financial support?

A I would subscribe to that very strongly, yes.

Q And it further goes on to say that while the State and federal monies assure the various school units in an educational program, quality programs are more often found where there are—where they are substantially supported by local resources?

A It couldn't be said better.

Q So to that extent, whatever great or small it is, the Scotland Neck School Administrative Unit for the students that attended will have that possible opportunity of a few more funds in order to improve its system, isn't that correct?

A I think that's correct.

Q Now, Dr. Phillips, did you know that in approximately 1965 the leadership of Scotland Neck, practically the same people that visited your office earlier this year, before this bill was introduced, introduced a somewhat similar bill to create a school administrative unit, a separate school administrative unit for the Scotland Neck area?

A I've been told this, yes.

Q Did you know that our senator from Halifax County in fact was the one that had that bill defeated, Senator Julian Allsbrook?

A I've been told that, yes. I don't know it for a fact.

Q And you have also heard that that bill was in fact introduced by Mr. Gregory in 1965?

A No, I did not know that.

Q All right, sir. Well, now, also, Dr. Phillips, are you aware that in 1966, in the spring, early spring of 1966, that the representative of Scotland Neck area, representative on the Halifax County School Board, together with other members of the Halifax County School Board, communicated with your office—then Dr. Carroll's office, particularly to Dr. Pearce, in the School Planning Division—

and requested permission to build a consolidated integrated high school in the Scotland Neck area?

A No, I do not know that. I have not read this history.

Q You are not familiar with that?

A No.

Q Not familiar with that at all?

A No.

Q Of course, the records of whatever negotiations—whatever reasons that that was not done; whatever went on, would be probably still in your office—at least Dr. Pearce's office?

A I assume they would be in the Board of Education's minutes if it came before the Board of Education, yes.

Q Would it be a fair statement to say, Dr. Phillips, that—that even though you feel very strongly that school administrative units should be four or five or six thousand at least, that in this State, as the schools now exist, that there are a number of city administrative units under that that are fairly small, that is, three thousand and below, that are better schools and turn out a better product than some of the larger school administrative units—is that a fair statement?

A I would concede that, un-hunh.

MR. JOSEY: I think that's all.

MR. KENNEDY: I'd like to go over a few things.

EXAMINATION BY MR. KENNEDY:

Q You mentioned, in response to one of Mr. Josey's questions, Dr. Phillips, I believe you testified before the House Education Committee against the bill. How did that come about; were you invited or were you asked to speak, or how did that come about?

A The Chairman of the House Education Committee asked if the State Board or the State Superintendent's office would like to be heard or the Chairman of the House Education Committee asked if the State Board of Education and the State department would like to be heard.

Q Who was that, sir?

A Mr. Graham Tart was the chairman of the House Education Committee.

Q Did he express an opinion in favor or against the Scotland Neck bill?

A I don't recall that Mr. Tart expressed his opinion as the chairman of the committee.

Q Did the bill—was the bill reported out of that committee?

A Excuse me. Was it—

Q Do you know whether it was reported?

A Yes, it was reported out.

Q Do you know whether there was any recommendation made?

A It was reported out of the House Education Committee without prejudice, as I recall. This is a matter of record. I think this was the general thing.

Q Do you know whether or not the bill then went to another committee in the House?

A It was my understanding that it was then sent to the House Finance Committee.

Q Who was the chairman of that committee?

A Representative Thorne Gregory is the chairman of the House committee.

Q Is he the—is he also the same man that introduced the bill?

A I believe Mr. Thorne Gregory introduced the bill.

Q Was Mr. Gregory the man who met with you prior to the introduction of the legislation?

A Yes.

Q Was there more than one meeting?

A I don't believe he was here in this office with the group that came. I did talk directly with him.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Did you just say that the Mayor—

A I did not keep actual records. Mr. Gregory was not here in the meeting itself. Mr. Gregory was not here.

Q In response to one of Mr. Crew's questions, in which he asked you about a plan within the past few months to build a consolidated high school in one area of Halifax County, is that a—is the proposal to build that high school one of the recommendations in the School Survey done by the Division of School Planning?

A Yes. The basic proposal called for two senior high schools as shown on page 14 of the report, in two basic attendance areas. The interim plan called for three in the transitional period. Really, I guess it was four altogether. But the one senior high school that I believe we were taking about at that time was the initial one in that upper area of the county.

Q Would that have effect on the education for the children who would go to that school; would it improve their educational opportunities or would it detract from the educational opportunities?

A It is my opinion that it would improve it.

Q Mr. Josey asked about a bill in the Legislature to cut off general control funds to the administrative units of 7500 pupils or less. Was such a —such an idea recommended by the Governor's Study Commission?

A No.

Q Mr. Josey asked you questions about several tables appearing in the ranking book, called the Ranking of School Administrative Units, July 1968. Is it fair to make any generalization from those questions that Mr. Josey asked you about the general rankings in each table that a small unit might fall into or a large unit might fall into? Were you discussing in your answers to Mr. Josey's questions that all small units in the State, say, under 3,000 students would necessarily fall the same place where the Tryon and the Tyrell County units fell, and all units of ten thousand students would fall around where the Halifax County Unit is located?

A No. I would not assume that, if I understand your question correctly.

Q Do you understand my question?

A Yes. You better repeat it one more time so I do understand it.

Q Can you draw any generalizations with respect to each of those tables that Mr. Josey asked you about as to whether all small units rank together in a block and all units the size of Halifax County rank together somewhere else on the scale?

A No, you cannot make any generalizations because there are a number of other factors involved in each of those.

Q Without getting specific to each table, are there school systems of size, much larger than Halifax County, that might rank above Tryon and Tyrrell County?

A Yes.

Q Of course, the ranking speaks for itself; you get the specific facts from the pages of the publication itself, can't we?

A That's correct.

Q With respect to those tables, all of those tables that Mr. Josey asked you about, after you have answered those questions for Mr. Josey do you have a different professional opinion now about whether to support or not to support a proposal such as the one from Scotland Neck to create a small separate administrative unit?

A No.

Q I believe when Mr. Josey—although it may have been Mr. Crew—you mentioned that you had a file on Scotland Neck. Do you have a file on Scotland Neck?

A We have a file on every school system in North Carolina in this office and other offices.

Q Do you have correspondence in that file relating to this particular bill for the Scotland Neck system?

A Whatever has come into the Department in the way of official documentation would be in that file or would be in other appropriate school system files in the Department.

Q Are you familiar with the contents of that particular file enough to describe in particular the contents for us without having reference to the file itself?

A Not to the degree of being specific. I'm sure there are statistics concerning studies made. There are clippings from the newspaper. There would be notes that have been put in from time to time with the School Planning Division, and things like this would be in the file for Halifax County, and I assume they have set up a Scotland Neck file now. We have a fairly complicated filing system of administrative units. Anything that has come in here would be in one of these two files.

Q Other than the files that contain routine records required of all other administrative units, do you have

a personal file dealing with the bill to create the Scotland Neck Unit?

A Oh, yes. It's—you will have to really check with my secretary to see how it is filed. I asked for the Scotland Neck file. This is an accummulation of information concerning the issue of legislation. Now whether it is in the master file on Scotland Neck or something else I would have to check with her.

Q Would you mind if we take a look at it?

A No. No.

Q In general does the Governor's Study Commission Report in the Index, roman pages—roman numeral eight, nine, ten, eleven, twelve, and thirteen contain the names of the Committee members assisting the Commission?

A Yes.

Q And are the professional titles of any of these members also listed by their names?

A They are.

Q In general are there a number of superintendents and other professional educators on these various committees?

A Yes.

Q And these are from the State of North Carolina?

A Yes.

(RECESS)

Q Dr. Phillips, thank you very much for getting your personal files and your office files on Scotland Neck District for us please. Do you have a—did you receive any letters expressing opposition to the Scotland Neck bill?

A Yes.

Q Can you tell us who some of those letters were from?

A One was a copy of a letter which was addressed to Senator Julian Allsbrook from a Mr. Forgan Berry, President of Halifax County School Masters Club. And another piece of correspondence which was addressed to me, dated February 7, 1969, from Mr. Jim Casey, Jr. Route 1, Box 300 A, Scotland Neck, North Carolina.

Q Did you get any other type of correspondence?

A I believe that's all.

Q Did you get any correspondence or materials from the—

A This office received a copy of a statement made by Dr. Salter J. Cochran of Weldon, North Carolina, representing the Eastern Council on Community Affairs. This was addresed to the Senate Finance Committee. This copy was picked up at the committee hearing. It was not sent to me by mail.

Q I see. Does that document have approximately five printed pages, sir?

A Yes.

Q Is that dated February 19, 1969, at the top?

A Yes.

Q Did you get any other correspondence expressing opposition?

A Also from the same Dr. Cochran in which he included a copy of a statement he had made before the Halifax County Board of Education. It is dated 24 January 1969.

Q Were these statements in general expressing favor or disfavor of the Scotland Neck bill?

A The two letters were addressed to me, one, the letter—

MR. JOSEY: The 24 January I don't think had anything to do with Scotland Neck. I don't think so. I could be wrong. I think that was a statement he made that had to do with the integration plan.

MR. KENNEDY: Yes.

A Yes. This was a statement made to the Board and we just received it as information. It concerned Halifax County directly, yes.

Q (Mr. Kennedy) Your last remarks—

A The one letter I received directly from Mr. Casey was directed to me and was in opposition to the proposal. The other correspondence was a copy of a letter addressed to Senator Allsbrook, which expressed opposition.

Q The letter of 24 January 1969 from Dr. Cochran did not?

A Did not pertain to Scotland Neck. Yes, that's correct.

Q Does your file also contain a one-page document headed at the top "Statement Costs," dash, "General Control, Scotland Neck"?

A Yes.

Q And the line near the bottom reads: total net costs, and there are three figures under that. Can you tell us generally what those figures mean, sir?

A This was an estimate of the general control costs which would be involved in the creation of a new school unit in Scotland Neck. It was prepared by our controller's office as information relating to the entire issue.

Q Can you tell us a little bit about what general control costs involve?

A Well, in the main, it's the State base salary for the superintendent and then the minor figures, for travel; clerical assistance is the other major item. In the main, it is cost of administration of a school unit and this is a basic line item in the State budgeting process.

Q What is the—what are the figures for the two-year period shown on that page?

A Two thousand nine hundred sixty-eight is the estimated total net cost for the biennium.

Q Who bears that cost?

A The State bears this cost.

Q Is that cost over and above what the State would normally have to pay if the Scotland Neck separate administrative unit had not been created?

A This is an estimate of the additional cost involved in the creation of a new unit in a school system, yes, in a new school count based on a thousand pupils in average daily membership.

Q Mr. Josey asked a number of questions about Tyrrell County School Administrative Unit. Was there a survey done by the Division of School Planning recently with respect to Tyrrell County?

A I'm not sure. I would assume that there has been one. I would have to check our records to see.

Q I am showing you a document, some forty-five pages; it reads on the cover, "Tyrrell County, 1968 School Survey, North Carolina Department of Public Instruction." Is this a survey of the Tyrrell County School System?

A Yes.

Q Are there recommendations by the survey committee appearing on page eight?

A There are recommendations, yes.

Q Does recommendation number one, dash, general, read as follows: The Committee recommended that the Tyrrell County officials explore all the possibilities, exhaust every effort in developing cooperative, immediate and long-range plans for improvement with adjacent counties?

A Yes.

MR. KENNEDY: That is the first sentence. Any re-cross?

EXAMINATION BY MR. JOSEY:

Q Now, Dr. Phillips, you said that you had a letter expressing opposition to the Scotland Neck School bill from a Forgan S. Berry. And I will ask you if in fact he—he, of course, does not live in Scotland Neck, in the town limits, and would not be a citizen of the area in which this school is going to include, isn't that correct?

A I do not know that for a fact. We filed the letter for information. It wasn't even acknowledged. This was a copy of a letter.

Q As a matter of fact, he is a principal of White Oak School, which is in the southwestern section of the County?

A I do not know that.

Q Some thirty, forty, fifty miles from Scotland Neck?

A I simply received that as a copy.

Q Dr. Salter J. Cochran is a citizen and resident of Weldon?

A It showed that on his letter.

Q As a matter of fact, his children have always gone to a city unit, which is Weldon?

A I just received it and put it in the file. I don't know anything about the letter. Didn't acknowledge the letter and put it in the file.

Q He was one of the citizens that opposed the creation of the Scotland Neck Unit, isn't that right?

A As I recall he appeared, yes.

Q And this fellow Jim Casey, Jr., from the address on his letter it's pretty obvious he lived outside of the town limits; he lived at a rural route, isn't that correct?

A I did not check his address. It is on his letter.

Q But you had no communication that you recall from any person that lived inside the corporate limits of Scotland Neck, black or white?

A This was all the correspondence.

Q Who opposed?

A Yes.

Q And, of course, this cost of twenty-two thousand nine hundred sixty-eight dollars you say was an estimate, and that is for a two-year period.

A Yes.

Q Of approximately eleven or twelve thousand a year?

A (Witness nods in the affirmative)

Q And isn't it also true that whatever students that ride—rode the school busses in 1969, 1968 and 1969, who attended Scotland Neck School, that would—there would be no school busses in the city unit in the 1969-1970 year—isn't that correct?

A Unless some child lived a mile and a half from the unit to which he is assigned.

Q And so whatever decrease in school bus operation would be—decrease the amount that the State had to pay for that particular item for the Scotland Neck School Administrative Unit, isn't that correct?

A This would be correct.

Q And so it would be—do you have any opinion as to the cost of operation of ten school busses for one year, or for a biennium for that matter?

A No, but I could get the figure for you.

Q But it could be considerable, couldn't it?

A Depends on what you define 'considerable'. Yes, it is a cost factor.

Q It could very well aproach this twenty-two thousand dollar figure, couldn't it?

A I could get the figure. I do not know, honestly.

Q And, of course, you have to pay minimum wage to the driver nowadays?

A That's right.

MR. JOSEY: All right, sir.

EXAMINATION BY MR. CREW:

Q Doctor, I believe Halifax County has the fifth highest number of Negro students in its school unit of any county in the State, is that correct?

A It's in that range, Mr. Crew. I don't know specifically. The fifth? I would have to check the statistics.

Q I notice that the book, A Ranking of School Administrative Units, that it lists Guilford, Greensboro, Forsyth and Mecklenburg as being four counties who have a higher number of Negroes in their units. All four of those are in the western part of the State and not in the east, is that correct?

A Yes, sir.

Q Dr. Phillips, does—do private schools cost more per pupil, generally speaking, than the public schools for the education of children?

A The reported cost per pupil of youngsters in private schools is less to the best of my knowledge than the expenditure in public schools.

Q You say it is less in private schools?

A Yes.

Q I believe you testified yesterday that in your opinion the quality of education in the private schools that have been created in the last two or three years as a result of integration was perhaps inferior to that of the public schools or some older private schools?

A The average would be less effective than the average public school, yes, sir.

Q Dr. Phillips, in your opinion are the local school boards more familiar with the local school problems and needs and therefore in better position to chart the courses, further courses, of the local administrative units?

A Basically, yes.

Q This deposition is being taken, Dr. Phillips, in connection with a case now pending in federal court with respect to the Scotland Neck Unit. As you may know, another action is now pending in another branch in federal court respecting the Warren County Unit and Little-

ton Unit. The Littleton-Lake Gaston Unit—a part of that is in Halifax County and, of course, all of the Scotland Neck Unit is in Halifax County. With that background I ask you if in your opinion it would not be very difficult for the Halifax County Board of Education to make any concrete plans with respect to implementation of integration until the question of the future of those two units is finally decided?

A It will be difficult, yes.

MR. CREW: That's all.

(DISCUSSION OFF RECORD)

MR. KENNEDY: I'd like to have the reporter mark as Government's Exhibit 7 a one-page document titled at the top, "Estimated Cost," hyphen, "General Control Scotland Neck," paren, "based on 1,000 in ADM," close paren, "On Present Standards." Please mark as Government's Exhibit 8 a one-page document dated at the top, February 19, 1969, letter to Honorable Julian R. Allsbrook, over the signature of Mr. Forgan S. Berry. Please mark as Government's Exhibit #9 a one-page document, handwriting on the front and the back, dated February 7, 1969, addressed to "Dear Mr. Phillips," signed by Jim Casey, Jr. Route 1, Box 300A, Scotland Neck.

It is stipulated and agreed by the parties that Government's Exhibits 7, 8, and 9 are copies of documents from the file of Dr. A. Craig Phillips on the Scotland Neck School System, and may be used in lieu of the originals.

(FURTHER DEPONENT SAITH NOT)

* * * *

W. HENRY OVERMAN

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. KENNEDY:

Q State your name, address, and occupation, please.

A W. Henry Overman, Superintendent of Schools of Halifax County unit.

Q How long have you been superintendent?
A Since July first, 1957, of this unit.
Q And can you please tell us the, for the last year—the year 1968-69—the number of schools in your school system, please?
A There were 18.
Q And can you tell us the number of pupils by race for each of these schools in the grades taught there?
A Now, you want the grand total?
Q For the whole system. First the pupils.
A 10,655, total.
Q And how many of those are Indians and how many of those are Negroes?
A 102 Indian. 8,196 Negro.
Q Can you give us the total number of students by race for each of the schools and the grade taught at each school, please?
A You want to list each school separately?
Q Yes.
A All right. The Aurelian Springs School, 503 total. Indian, 68. Negro, 118.
Q What are the grades, Mr. Overman, please?
A One through twelve.
Q Would you go through the rest of them, please?
A Just that information about each?
Q Yes.
A All right. The next school is the Bakers Elementary School. 283. Total, 283 Negro. Grades one through eight. Brawley High School, the total enrollment, 1106. Total Negro, 1106. Grades one through twelve.
Q Excuse me, sir. Is that right on the grades?
A I beg your pardon. Grades one through six and nine through twelve. Dawson Elementary School, total enrolled, 459. Total Negro, 459. Grades one through eight. Eastman High School, total, 952. Two Indian. 950 Negro. Grades one through twelve. The Enfield Graded School, total enrolled, 579. Negro, 177.
Q And the difference would be for white children, is that right?
A Yes, sir.

Q Is that true for the other schools where you gave the total?

A Right. Do you want me to give the difference?

Q That's right. Where there is a difference between the total and the minority people, that difference is the white, is that right?

A That's right, where it is Indian and/or Negro.

Q Did we get the grades for Enfield?

A Grades one through twelve. Everetts School, total 478. Negro, 178.

Q Is that grades one through eight, Mr. Overman?

A One through eight. The Hollister Elementary School, total, 331. Indian, 28. Negro, 303. Grades one through eight. Inborden Elementary School, total 949. Grades one through six and grade eight. Inborden High School, total, 469. Negro, 469. Grades nine through twelve. John Armstrong Chaloner, total, 680. Negro 680. Grades one through six and nine through twelve. McIver High School, Total 472. Negro 572. Grades one through six and nine through twelve. Pittman Elementary School, total 420. Negro, 420. Grades one through eight. Scotland Neck High School, total, 979. Negro, 193. Grades one through twelve. Thomas Shields Elementary School, total 203. Negro, 203. Grades one through eight. Tillery Chapel Elementary School, total, 272. Negro, 272. Grades one through eight. White Oak Elementary School, total, 304. Two Indian. 320 Negro. Grades one through eight. William R. Davie High School, total, 1161. Two Indian. 262 Negro. Grades one through twelve.

Those were the school totals in 1968-69.

Q Which of those schools will the County not operate this fall under your current plans?

A The Scotland Neck High School.

Q How about John Chaloner?

A John Chaloner will be operated under the present plan.

Q It will be operated?

A Yes.

Q Are there any children who reside in the area of jurisdiction of Halifax County School Board who are

not going to school or did not go to school for the 1968-69 school year within that area?

A Yes. Some have gone to private schools.

Q Have any children gone to the Haliwa School in Warren County?

A Yes.

Q What is the approximate number of those children?

A I do not have that information before me. I believe 150 is the approximate.

Q Were those Indian students?

A Yes.

Q Are those the only ones you can think of outside the private schools?

A Some have gone into the Littleton School in the Warren County unit. The approximate number there, I would say 140.

Q How many of those are white and how many Negro?

A I do not have that information.

Q Is it more than half white?

A Yes.

Q Is the Littleton School in Warren County a predominantly white school?

A Yes.

Q Can you give us the number of—total number of teachers—the number of teachers in the various minority groups for the 1968-69 school year, please?

A The total number of teachers, 455. Two are Indian. 326 Negro.

Q Are the County schools organized on an eight-four plan, grade plan?

A Yes, with some exceptions. There were four schools where pupils were moved—three schools where pupils were moved, whole grades, from all Negro schools to predominantly white schools.

Q When was that done?

A That was done at the beginning of last school year.

Q And was that done at the urging of the Department of Justice?

A It was. And there was one school where seventh grade only was moved to a predominantly white school.

This was a Negro school. So there were four, a total of four, where pupils were moved at the beginning of last school term year—school term.

Q Prior to July 1968 had the Halifax County School System been operated under a freedom of choice plan, pupil assignment?

A It had.

Q As of July first, 1968, what was the number of Negro children in predominantly white schools?

A Now, this is information for 1967-68?

Q Yes, sir, please.

A And your question is the number of pupils—will you repeat the question.

Q The number of Negro pupils in predominantly white schools?

A The information I have here does not separate the Negroes and the Indians. But the enrollment of pupils other than the present race was 365.

Q As of July first, 1968, what was the number that the Board anticipated would be—the number of minority race pupils that would be in predominantly white schools for the 1968-69 year?

A How many?

Q A year ago at this time how many did you anticipate would be in school in desegregated schools?

A Well, that is the number that I gave you from the other report. 362 to 382, Indians and Negroes.

Q As a result of dealings with the Justice Department there was a considerable additional number of children, Negro children, assigned to the predomiantly white schools for the 1968-69 year, is that right? After the dealings with the Justice Department weren't there a considerable number of additional Negro children assigned to the predominantly white schools for the 1968-69 year?

A Yes.

Q Do you know the approximate additional number?

A I wanted to be sure that I understood your question, Mr.——

(DISCUSSION OFF RECORD)

A I'm sorry. I will have to go back because I confused teachers with pupils in this number, total number of predominantly white schools.

Q (Mr. Kennedy) Mr. Overman, I am going to show you a copy of a letter dated August 13, 1968, on stationery of the Halifax County Schools, over the signature of Mr. Claude Kitchin Josey, as attorney for the Halifax County Board of Education, a letter addressed to Mr. Stephen Pollak, assistant attorney, United States Department of Justice, and ask you if you would read sub-paragraph one and sub-paragraph two of paragraph (a), and ask you if that doesn't give the number of additional Negro pupils in the grades who will be assigned for the 1968-69 school year to predominantly white schools in Halifax County?

A This means that at the beginning of the school year there were 367 students transferred from seventh and eighth grades of Negro schools. At one school there was a transfer of 116 students transferred to a predominantly white school from an all Negro school. And I must correct those figures that I gave you before. I was using a part of a report that had to do with professional staff rather than students.

Q What are the corrected figures then?

A The total number of Negro, I mean, pupils other than white race in predominantly white schools——

Q At the end of the 1967-68 school year.

A There were 365, 1967-68 school year. Now, as I recall, you asked a question—how many were in the white schools at the end of the 1968-69 school term?

Q Yes, sir.

A Now, there are more pupils to be added to these transfers, and if I can find that I may have to add some to get the total number.

Q Well, maybe—can you tell us approximately at the end of school a month or so ago the number of Negro children in predominantly white schools in Halifax County?

A I believe there were near eight hundred.

Q All right, sir. This is a result of some free choice and some involuntary assignment, is that correct?

A That's correct.

Q Do you recall approximately when the school board, or yourself, first officially heard from the Department of Justice about a year ago?

A Around the first of July.

Q Just to refresh your memory, can I show you a copy of a letter addressed to the Halifax County Board of Education, two and a half page letter, over the signature of Mr. Stephen J. Pollak. Would you read the date that is typed in that, please?

A Yes. When I answered your question it was the time you visited our office around the first of July. I don't recall the exact date.

Q What is the date of this letter?

A This is July 27, 1968.

Q Does that look like a copy or is that a copy of the letter that you got from the Justice Department?

A Yes, it is.

Q Without going into the full content of the letter, can you describe briefly what Mr. Pollak's letter related to the school board with reference to pupil desegregation?

MR. JOSEY: Now I object. I'd like for it to go on the record. I don't know if this is the way to get this letter in, but, anyway, I object. I'd like for you to show an objection.

Q (Mr. Kennedy) Well, as a result of this letter, Mr. Overman, was there—was there any publicity in the local newspaper in Halifax County given to this letter or the contents of it?

MR. JOSEY: I object to that.

Q (Mr. Kennedy) Well, if you know whether portions of the letter or articles concerning the letter appeared in newspapers circulated in Halifax County?

MR. JOSEY: I object. (To Witness) You have to answer. Go ahead.

MR. KENNEDY: (To Witness) Go ahead and answer.

A I think there was, yes. I can refer to those articles, if you think it is necessary, without too much trouble.

Q (Mr. Kennedy) After receipt of the letter did you and the Board Attorney, Mr. Josey, travel to Wash-

ington to negotiate with people in the Justice Department?

A Yes.

Q And what was the results of those negotiations, sir?

A Well, this plan of transferring pupils from the all Negro schools to the predominantly white schools was offered.

Q Was there also some faculty transfers involved with that, too?

A Yes. And the number of faculty members that went with these grades that had been assigned to the Negro schools, approximately 525 pupils and 18 teachers were transferred.

Q Is this correct, that there—these are all the Negro students and Negro teachers transferred?

A Yes.

Q Was there any other portion to the agreement between the Justice Department and the County School Board?

A Yes. The agreement was that another plan would be submitted prior to on or about March 15, 1969, for disestablishment of the dual school system in Halifax County unit.

Q By what date?

A March 15th.

Q That was the date of the plan. What date was the conversation or the disestablishment of the dual school system supposed to take effect?

A According to the agreement?

Q Yes, sir.

A By 1969-70.

Q That would be September of 1969?

A Yes.

Q Referring again to the letter dated August 13, 1968, on stationery of the Halifax County Board, over the signature of your then attorney, Mr. Josey, will you read sub-paragraph (b) of that letter, please?

MR. JOSEY: I object to his reading the letter into the record.

(DISCUSSION OFF RECORD)

MR. JOSEY: I'd like to show an objection for the record.

Q (Mr. Kennedy) Would you read that paragraph, please, sir?

A On or about March 15, 1969, the Board of Education of Halifax County, North Carolina, will present a plan, and thereafter comply therewith, to your office, which plan will provide for complete disestablishment of the dual school system and complete compliance with the provisions of the Civil Rights Act of 1964 at the beginning of the school year 1969-70.

MR. CREW: The School Board would likewise object to that introduction.

MR. KENNEDY: All right.

Q (Mr. Kennedy) Is that substantially true, that is what the agreement was——

A Yes.

Q ——the paragraph that you just read, that portion of the agreement?

MR. CREW: I object to that. I think the agreement would stand for itself. His opinion is that is what the agreement was.

Q (Mr. Kennedy) Does that letter that you have just read to us set out the agreement?

A Yes.

Q Did that letter or the contents thereof receive publicity in newspapers circulated in Halifax County?

A Yes.

Q Did you comply with the first part of the agreement and in fact transfer the number of Negro children and number of Negro teachers to the predominantly white schools as indicated?

A Yes, we did.

Q I will ask you to look over that letter and see if there is any statement in there of any administrative difficulties that would prevent the Halifax County School Board from fully desegregating the school system——

MR. JOSEY: Object.

Q (Mr. Kennedy) ——for the 1969-70 school year?

MR. JOSEY: Object. That wasn't the purpose of that letter.

MR. KENNEDY (To Witness): You can answer.

(DISCUSSION OFF RECORD)

A There is one reference about administrative problems involving the instituting of the 1968-69 portion of the proposal.

Q (Mr. Kennedy) Is there any statement in Mr. Josey's letter about administrative difficulties in complying with meeting the 1969-70 terminal date?

A Not in this letter.

Q All right, sir. Did you and Mr. Currin and Mr. Josey meet with myself and other Justice Department people in Washington in approximately February of 1969?

A Yes.

Q Was that in an effort to work out an acceptable desegregation plan?

A It was.

Q And after that discussion did you submit to the Justice Department a proposed desegregation plan?

A Yes.

Q Along with a map of the school district?

A Yes.

Q Showing the schools. Are there some lines drawn on the map?

A Yes.

Q How many? How many areas are provided for on the map?

A Five areas.

Q I'm going to hand you a two-page document, at the top of which is the heading "Halifax County Schools, Halifax, North Carolina, Halifax County Board of Education Desegregation Plan." I ask you if you recognize that, please?

A Yes, I do.

Q Is that the plan that was submitted around February 1969?

A It was.

Q This is part of the agreement that was worked out in the Summer of 1968, just the plan that was submitted as a result of what you promised in the Summer of 1968?

A Right.

Q MR. KENNEDY: Will the Court Reporter mark this as Government's Exhibit #1 to this deposition?

(MARKED FOR IDENTIFICATION: Govt's Exhibit #1—Overman)

Q (Mr. Kennedy) And that sets forth the plan as the School Board had proposed it at that time, is that correct?

A That's correct.

Q Did this plan provide for a combination of some geographic zoning and some free choice basically?

A And some pairing of grades.

Q And some pairing of grades, yes, sir. Were there zone lines drawn all over the County pursuant to that plan?

A Zone lines?

Q Yes.

A Yes.

Q Did you know at that time the number of white and Negro children residing in each of the zone lines or each of the zones?

A Approximately, yes.

Q In each of the sub-zones?

A Yes.

Q Do you have that information now?

A I do not have that information before me, unless it is on this map.

(DISCUSSION OFF RECORD)

A I do not have the division between races.

Q On the races, but you have that information, is that right?

A Yes.

Q Did you have it at the time the plan was proposed? Did you have the information for the number of children by race for each of the zones?

A As nearly as we could get it, yes.

Q How was that compiled?

A By a spot map of where children lived.

Q Do you have those spot maps?

A I do not have them with me.

Q Do you have them in your control at the office?
A I think they can be located, yes.
Q You retained them?
A Yes.
Q Was it—was that particular plan accepted or rejected?
A It was rejected.
Q What did the Board do then about a pupil assignment plan?
A The Board passed a motion that they would go to freedom of choice for the next school year. Now, if you would like the full motion, I will be glad to get that from the minutes.
Q Thank you for offering. I don't think that will be necessary at the time. How would that Board resolution affect the Negro children who had been involuntarily transferred prior to opening of the 1968-69 school year?
A You say how would it or how did it?
Q Yes, sir, how would it?
A Well, many of them on a freedom of choice—we did have the freedom of choice procedure—elected to go back to the school from which they were originally transferred.
Q Have you had a freedom of choice period for the coming year, sir?
A We have.
Q Do you know how many Negro children have chosen to go to predominantly white schools for the coming year?
A Yes.
Q Is that the—what does that include? . . . Excuse me. Can you give me the figure, please?
A All right. Just a moment. The total number of forms returned was 10,065. It represented 98% of the choice forms expected at that time. This was the May fifth report.
Q Do you know how many of those are Negro children and how many are white children?
A Your question is: how many?
Q How many Negro children chose to attend the predominantly white schools for the coming year?

A I don't have it tabulated in that form.

Q Do you know by each individual school, sir?

A I beg your pardon.

Q Do you know the figure for each school?

A It hasn't been totalled. I will have to give you the total number. You want them by schools or shall we take the time to total?

Q If you have them by school, yes, sir.

A Well, I will need an adding machine here to do it quickly.

Q Do I understand that you do not have the total number of Negro children choosing for each of the white schools?

A I do not have that sheet before me. It may be available.

Q Do you have figures for the number of Negro children choosing for each grade of each predominantly white school?

A Some of these will have to be totalled. I have the information here but it has not been totalled. If you will give me a minute I think I can have it.

Q All right, sir.

A Aurelian Springs School, 14 Negro, 74 Indian, and total, 354. The white would be the difference between these figures.

Q All right, sir. If you will go to the next one.

A Would you like me to read all of the schools or just those where they——

Q No, sir, just the number of Negroes choosing the predominantly white schools.

A In the Eastman School—no, that is not predominantly white. Excuse me. William R. Davie School, 196 Negro, two Indian.

Q What was the number, number of students there? Do you have the total?

A Yes. 973. In the Enfield High School, Enfield Graded School, 91 Negro, total 403. And they are the three predominantly white schools that are in our unit at the present time.

Q What is the Scotland Neck?

A I do not have the figures for Scotland Neck since it was not a part of our unit at the time.

Q Mr. Overman, when you mentioned Enfield School, were you referring to the full twelve grades at that school?

A Yes, that's right.

Q But it is called the Enfield Graded School?

A Just by name.

Q But it means it has twelve grades?

A It is a union school, all twelve grades.

Q Has the total number of Negro children in the school system changed more than five percent from the total of Negro children in the school system in the past year?

A Now, are you comparing 1968-69 with the registration or the free choice forms for 1969-70?

A Yes, sir.

A Yes. It is fewer. We had 10,386 at the end of the seventh month.

Q That is, total pupils?

A That's right.

Q Both white and Negro?

A Right. And that does include the Scotland Neck pupils. And the 10,065 also included the freedom of choice in Scotland Neck.

Q So it was included in the freedom of choice?

A That's right, the total figure was, but I do not have the breakdown between the races.

Q At Scotland Neck?

A That's right.

Q Can we get, later on, after we take a break, the total number of white and Negro children that submitted choice forms for the coming year, sir?

A I have that here.

Q You have the totals?

A Yes, which includes Scotland Neck.

Q Can you give us those totals, including Scotland Neck, please?

A White, 2233. Negro, 7583. Indian, 249. Now this was a total sheet, and I said I did not have the breakdown of Scotland Neck. I do have in the total sheet if you would like to have that, too.

Q For Scotland Neck?

A Yes, sir. 747 white. 262 Negro.

Q Under freedom of choice for any year in Halifax County School System has any white children ever chosen to attend a predominantly Negro school?

A Not to my knowledge.

Q Do you have any reason to believe that in the next year or two that there will be any white children choosing predominantly Negro schools under any freedom of choice plan for Halifax County?

A I have heard that there may be, but I do not have definite information.

Q Are there other school systems in Halifax County in addition to the school system run by the Halifax County Board of Education——

A Yes. Two.

Q Outside of the Scotland Neck system. Can you name these two?

A The Welden City Administrative Unit and the Roanoke Rapids City Administrative Unit. And the Littleton-Lake Gaston Unit takes in a part of Halifax County. The vote on that unit has not been cast—election has not been held for that unit, so I don't suppose you can say it has been established yet.

Q The Act of the State Legislature setting up the Littleton-Lake Gaston system was passed subsequent to the Act of the Legislature setting up the Scotland Neck Administrative Unit, isn't that true?

A Yes.

Q Were either of—the Welden City Unit or the Roanoke Rapids City Unit created since you have been associated with the Halifax County Board of Education?

A No. They were created before that time.

Q Do you know when they were created?

A I do not.

Q Do you know the approximate percentage of Negro pupils in the Roanoke Rapids City System?

A I do not have the information.

Q Going back for a moment to the rejection by the Justice Department in approximately February of 1969 with respect to the plan proposed by the Halifax County

School Board, was that rejection given publicity in newspapers circulated in Halifax County?

A It was through Board of Education action, yes, that the plan was not—was not approved by the Justice Department. The Board subsequently had made a motion to go to freedom of choice.

Q Now at the Town of Scotland Neck how many schools are located within the town boundary lines?

A Now, are you speaking of school location or school buildings on one location? Are you——

Q Just the number of schools that are located inside of or in whole or in part?

A One school.

Q Is that the Scotland Neck High School?

A The Scotland Neck High School.

Q And is it true there is a building that has been operated with that main Scotland Neck campus located outside of the Town?

A Yes.

Q And that is called the Junior High School Building?

A Yes.

Q And this past year the grades seven through eight were taught there, is that right?

A That's right.

Q And where is the Brawley School located with respect to the town boundary lines of Scotland Neck?

A Just outside of the city boundary lines.

Q How far outside, do you know, sir?

A Well, I think the street that goes along the front of Brawley School is the town boundary lines. I believe that is correct.

Q So it is right on the——

A Yes.

Q ——right on the edge of the town?

A Yes.

Q Did the State—the North Carolina Department of Public Instruction publish a school survey for the Halifax County Schools recently?

A Yes.

Q Was this in approximately September of 1968?

A Yes, it was. It was when the survey was made. The report of the survey was delivered later.

Q When was that delivered, sir?

A I believe it was in the December—at this December Board of Education meeting.

Q Were members of the Board of Education made aware of the existence of the survey at that time?

A (No answer)

Q I say, the copies were distributed to them at the Board meeting?

A Yes.

Q Have you examined the contents of that survey yourself?

A Sir?

Q Have you examined the contents of the survey?

A Yes.

Q Are the figures in there substantially correct?

A Yes.

Q Do you know of any mistakes in the survey with respect to the figures therein?

A No.

Q How often does the Board of Education meet?

A Regularly once a month, and then such call meetings as they deem necessary.

Q Within the past two years have there been suggestions made to the Board of Education at its meetings for possible improvements, physical improvements, at either the Scotland Neck School or the Brawley School?

A Yes.

Q At which school, sir? Both of them?

A Repeat that question.

Q Within the past two years have there been suggestions made for the improvement of its physical plant—let's take the Scotland Neck School first?

A Now the report called for consolidation, a long-range plan.

Q Let's say outside of this report. Say, from citizens or citizen groups or school officials, have there been suggestions for improvement of the Scotland Neck School?

A In the last two years?

Q Yes.

A Oh, yes. Yes.

Q What were the nature of some of those suggestions?

A Well, I don't know whether it's been within the last two years or not, but there have been requests for a new school to replace some of the older buildings at the Scotland Neck Location. I wouldn't say it's been within the last two years. Of course, every year that we make budgets then the requests come before the Board of Education. And this has been a request for many years.

Q Have requests been made within the past few years for physical improvements at any of the other schools in the County?

A Some renovations, you're speaking of?

Q Any improvements, renovations, new buildings, additional buildings at any other schools?

A Well; there has been the request that four high schools be consolidated into one comprehensive unit. And they are in what was called the northwest part of the County.

Q Who made that request, sir?

A Well, this request—well, the Board of Education asked Dr. J. L. Pearce of the Division of School Planning, the person who wrote this report that you are speaking of, to meet with the Board to discuss the consolidation of these four high schools and to make whatever recommendations necessary for the existing schools, high schools, in the County. And so this has been through a conference with Dr. Pearce, the director of the Division of School Planning.

Q When was that request made to Dr. Pearce, sir?

A You are speaking now of a request for approval of the State Board of Education?

Q Do I understand that someone on behalf of the Halifax County Board went to Dr. Pearce to discuss with him consolidation of four high schools in the northwest part of the County?

A Oh, yes. Yes.

Q When did that take place?

A I don't know the approximate date. I think Dr. Pearce met with us after I had talked with him about

this, and he met with the Board of Education on—I'd have to have the minute book I suppose. It must have been the May meeting.

Q 1969?

A Yes. Yes, I think I am right there. And then since that time a request has been made for the approval of the construction of a school, new high school, that would consolidate four existing smaller schools in that area.

Q Which four schools were they, sir?

A The John Armstrong Chaloner School, the William R. Davie School, the Aurelian Springs School, and the McIver School.

Q Is that similar to a suggestion that is contained in the 1968 Halifax County School Survey?

A Well, it is similar to that. Not exactly the boundary lines drawn there, for a long-range plan. I might add that this request was made so it could be located that it might serve the—what is known as the southwestern section of the County, too, which would go further toward Enfield. Now this request also included some improvements and additions to the Brawley High School, the Inborden School, the Eastman School, and also the Enfield School—four other schools.

Q Can you tell us the number of teachers by race during the past year at the Scotland Neck School, please?

MR. JOSEY: I'm sorry. What was that question, please?

MR. KENNEDY: The number of teachers by race at the Scotland Neck School for the 1968-69 school year.

A 46 white and 10 Negro.

Q (Mr. Kennedy) Does that figure of 46 include one instructional staff member and one principal?

A I'm sorry. That column includes both. It includes both—it's 36 white and 10 Negro.

Q Does that figure of 36 include one principal and one instructional staff member?

A The 36 includes one principal and all of the other instructional staff members by grades. If you would like to have those by grades?

Q No, sir. The number of white and Negro teachers at the Brawley School for the 1968-69 school year, please?

A The total number is 40, which includes the principal. And the number of Negroes, 40.

Q There were no white teachers or instructional staff at the Brawley School this past year?

A No.

Q I hand you a document and ask you to identify this, please, and state what this is?

A A School Survey by the North Carolina Department of Public Instruction for the Halifax County School Unit.

Q Is that the one that you told us was published in December 1968?

A Yes.

Q Would you please turn to page 53, and does—on page 53 is there a table of curriculum for the various high schools in the County listed?

A Yes.

Q That is Table 26?

A Correct.

Q Can you read the paragraph at the top of the page, please, into the record?

A "Secondary Curriculum Course Offerings. Table 26 shows the number of courses offered at each secondary school in the County unit. It is generally agreed that a secondary school should be large enough to provide a minimum of three times as many courses as the school requires for graduation. In North Carolina a minimum of 16 units is required for graduation; consequently all high schools in North Carolina should strive to offer a minimum of 48 courses."

Q Under that would you read please the total number of courses for the Brawley School?

A 44.

Q The total number of courses for the Scoltand Neck High School, please?

A 39.

Q And the number of courses for the Aurelian Springs School?

A 35.

Q That is a predominantly white school, isn't it?

A It is.

Q And the Enfield School?
A 32.
Q Is that a predominantly white school, sir?
A Yes.
Q And the William R. Davie School, the total number?
A 36.
Q That is also a predominantly white school, isn't it?
A It is.
Q Is it true that you have read into the record the total number of courses for all four predominantly white high schools in the school system?
A Yes. And I shall add that it was the information from the 1967-68 school year, not the 1968-69.
Q Do you have those total number of courses for the past year, sir, for the 1968-69 year?
A Do you have that information? . . . Could we delay that for a few minutes.
Q Certainly.
A It is being obtained.
Q Certainly. Are these figures correct for that 1967-68 year, sir?
A Yes.
Q Now in the meantime we can go on with some other matters. Are both the Scotland Neck and the Brawley High Schools accredited with the State of North Carolina, sir?
A Yes.
Q Are either of them accredited with the Southern Association?
A No.
Q Now you have already told us that the Scotland Neck school system, I believe, has been created by act of the Legislature and for vote of the people. Do you know when that school system will operate its school, when it will begin to operate those schools?
A July first. You mean the actual school term?
Q Yes, sir. Do you know when that is?
A I do not know the calendar for the Scotland Neck school system.

Q Will the Scotland Neck City System begin to operate its schools sometime this fall?

A So far as I know, yes, sir.

Q Now was the bill that set up the Scotland Neck City Administrative Unit introduced in the Legislature during 1969, sir?

A Yes.

Q When did you first become aware that there was going to be an effort made to create a city administrative unit in Scotland Neck?

A About the time that the Legislature met in January—a little earlier than that—that there would be some—an effort.

Q Were you approached by anybody ahead of that time for your opinion as to the educational advantages of a separate city school system for Scotland Neck?

A I don't quite understand your question, because many people have talked to me about that from time to time in general conversation. Now do you have reference to any specific contact?

Q Prior to the time the bill was introduced in the Legislature did anyone ask you whether a separate school system for Scotland Neck would improve the schools in Scotland Neck?

MR. JOSEY: I object to that question, object to the question about what anybody asked him about.

MR. KENNEDY (To Witness): You can answer.

MR. JOSEY: Go ahead and answer.

A Well, I have been conferred with by a number of people in regard to it, yes.

Q (Mr. Kennedy) Was this prior to the time it was introduced by the Legislature?

A It was before it was introduced before the Legislature.

Q When was that, sir?

A Well, I would say sometime in December.

Q Who were those people?

A I don't recall. I don't know just what reference you have, because a number of people have asked me about it.

Q Did you or anybody connected—employed by the County School Board participate in a study of the educational benefits for a separate school system for Scotland Neck?

A Not to my knowledge.

Q Do you know whether there was any study done by professional educators as to whether the separate school system for Scotland Neck would be or would provide educational improvements?

A No.

Q Do you know whether non-educators made such a survey?

A No, I do not.

Q With respect to the discussions you have had for a separate school system in Scotland Neck what are the reasons given for a separate school system in Scotland Neck as far as you know?

MR. JOSEY: Objection.

MR. CREW: We will object. I don't see how he knows, how these answers are necessarily within his knowledge.

Q (Mr. Kennedy) Let me ask him if he knows.

A No, I do not. It is possible I could answer that with a supplemental tax levy that there would be more money per child in the Scotland Neck Unit than there would be in the County Unit, and outside of that I cannot answer.

Q Does the December 1968 Halifax County School Survey done by the State Educational officials recommend any separate school system for any area of the Halifax County School Administrative Unit?

A No.

Q Does it in fact recommend consolidation of high schools as an interim measure?

A Consolidation of high schools within the unit of Halifax County?

Q Yes.

A It does as a long-range plan to schools, and then an interim plan calls for other arrangements.

Q I hand you again the document that you have previously identified as the 1968 survey, and ask you if

on page eight, the top paragraph—does that contain the long-range recommendation by the survey, sir?

A Yes.

Q Will you read that first paragraph, please?

MR. JOSEY: Objection.

MR. KENNEDY: What is your objection?

MR. JOSEY: I object.

MR. KENNEDY: Is this something that I could cure?

MR. JOSEY: No. I don't think it is up to him to read into the record a report by others that he is not necessarily in agreement with and he has no knowledge, but to read out of the book—but, anyway, I think I could agree—

MR. CREW: I—we also object. I think the survey speaks for itself.

MR. JOSEY: We have no objection to entering the whole book.

Q (Mr. Kennedy) Do you have a copy of this?

A Yes, I do.

MR. KENNEDY: All right, we will just put it in the record.

(DISCUSSION OFF RECORD)

MR. KENNEDY: You stipulate that this is a copy?

MR. JOSEY: Yes.

MR. KENNEDY: The parties through their counsel stipulate that the document which is to be marked Government's Exhibit #2 is a copy of the School Survey for the Halifax County Administrative Unit which was published by the North Carolina Department of Public Instruction.

(MARKED FOR IDENTIFICATION)

Q (Mr. Kennedy) Mr. Overman, you have testified that you are generally familiar with the contents of the 1968 County School Survey?

A Yes.

Q Are you also familiar with the recommendations by interim and long-range made by this survey team?

A Yes.

Q Are the long-range and interim recommendations—are there administrative difficulties which would prevent you from adopting and implementing those suggestions?

A Now, are you speaking of the long-range?

Q Well, let's take the intermediate range first, please.

A Yes. There are some financial difficulties in carrying out the whole—all of the recommendations.

Q What are those, sir? Just generally.

A Well, having all of the money to do the work that needs to be done at one time.

Q I direct your attention to page 13 of the exhibit.

A Yes.

Q Is it stated there that the committee recommends a maximum bond issue of approximately four million dollars?

A Yes.

Q Is that the kind of financial problem that you foresee?

A That's correct.

Q Are there other large financial problems in addition to that one?

A Well, having current capital outlay at levies annually—not having sufficient amount would be a problem, yes.

Q Could you explain that a little more fully, please, about the current capital outlays.

A I am talking about the capital outlay budget as adopted by the Board of County Commissioners annually. We request more funds each year than the commission is able to supply, and with the building plans, renovations, and additions that are called for, it would be—take a number of years to accumulate the sufficient money to do it. And——

Q Have your remarks been directed to the long-range recommendations, that is, for—to have just two high schools, two high schools?

A That is part of it, yes. And also some recommendations that have been made for the interim plan.

Q Are those made on pages 15 and 16, with a map on page 17?

A Yes.

Q Did members of your office cooperate and participate with the survey team and provide them with the facts and the figures that they needed?

A Yes.

Q To come up with their conclusions?

A Yes.

Q Are the conclusions or the recommendation of the interim plan found on page 15 and 16, are there any administrative difficulties standing in the way of adopting and implementing those recommendations?

A Well, not as much as there would be for the long-range plan, of course, because it would call for two new consolidated high schools.

Q The long-range plan does that?

A Yes, that's right.

Q What are the administrative difficulties, if any, which would prevent the School Board from adopting the recommendations of the interim plan?

A Well, there would still be a need for funds that could not be supplied all in one year with our current capital outlay budget.

Q Is money from the capital outlay budget used for—to construct permanent installations?

A Yes, partly. And for renovations and additions.

Q Well, can you get specific—what schools and what renovations and what additions would be necessary under the interim plan that you would not be able to pay for or that you would have difficulty paying for?

A Well, in District 1, on page 15, the Note here: It is estimated the four additional teaching stations will be needed for the total district. Temporary spaces could be provided there. On page 16, it calls for 16 additional teaching stations and the committee suggests that that be temporary teaching stations. That is the note at the top of the page. District 3, approximately 12 additional teaching spaces will be needed and there it also recommends temporary space or mobile units to provide these additional spaces. District 4, it says it will be sufficient to house all pupils for the interim plan. Now, this is assuming that we have enough of the mobile units to do it. But some other things that would require ren-

ovations really to carry on a good high school program. For example, having laboratory space for sciences, and having vocational laboratory spaces, and such as that, which is not spelled out herein particular, but would require more money to have satisfactory learning conditions where the school—all the children come into one school in a high school program.

Q Well, with respect——

A The interim plan can be provided for with less finances, of course, than the long-range plan.

Q Well, with respect to the mobile teaching stations, you referred to on District 1 four teaching stations, District 2, 16—that is 20—and District 3, 12—that is 32. How many mobile classrooms did the County have in 1968-69?

A Well, we have 52 that we can use for instructional spaces, but these units would not be suitable for some teaching areas, particularly in high school. This could be a temporary plan, it is true, without too much expense, but it calls for the—having more children in some of the schools in the high school department than they have had before, and I would say it would not be adequate without some renovations and additions.

Q Is the County school system planning to adopt the interim plan, having made a——

A Not entirely. The system now is planning to consolidate if it can get—well, the definite plans in one unit for this school that I spoke about earlier to consolidate four high schools.

Q Does that require building a completely new school?

A Yes. And this, of course, would be partially a part of the long-range building plan.

Q Do you have the money available to do that now?

A Have a part of it avaialble. Possibly enough for one unit of it. It is estimated that the entire cost of this high school would be a million, eight hundred thousand dollars. We feel that approximately nine hundred thousand of it might be available with State building bond money and current capital outlay money.

Q Where would you get the other nine hundred thousand dollars?

A. Well, that would have to be secured at a later date with current capital outlay. The possibility of some federal funds. I can't guarantee that by any means. There is a possibility of a bond issue if all units in the County would participate in it and work for it, but this is something that I can't say. When I say units I mean administrative units.

Q Has the Board of Education rejected the school survey or any part of it?

A No.

Q Are there—

A I would say this, that in presenting the plan to the Justice Department in February, it did not carry out exactly the way it was recommended by the school survey team.

Q That was the recommendation that was going to utilize a combination of geographic zoning, some pairing, and some zone assignment and some free choice?

A Yes.

Q Are there advisory councils for each individual school?

A For groups of schools within the administrative unit. We have four advisory councils in four areas of the County administrative unit.

Q What is the name of the advisory committee for the area that includes the Scotland Neck and the Brawley Schools?

A Well, we call it Number Three.

Q And members of that committee this past year made recommendations or requests for improvements in the Soctland Neck schools?.

A Within the past year?

Q Yes, sir.

A I don't recall just the specific recommendation, if they have made that.

Q Have there been any recommendations by it farther back than a year?

A Oh, yes.

Q Do you know what some of those recommendations were?

A It's an annual recommendation for replacement of some of the buildings in the Scotland Neck Administrative Unit. Now, of course, it was a part of the County unit.

Q The 1968 County survey published the results of some of the inspection of the physical plants of these schools, is that correct?

A That's correct.

Q And the observation as to the adequacy or inadequacy of a number of the classrooms in these schools, is that right?

A They have, yes.

Q And these observations were made with respect to all the schools in the system, is that right?

A Yes.

Q And, in general, they found some school buildings or some classroom buildings at the Scotland Neck School were below standard?

A Yes.

Q And there were other schools, other predominantly white schools of the County, where they found some classrooms below standard, is that true?

A Yes.

Q And at some of the predominantly Negro schools some of the classrooms were below standard, is that correct?

A Yes.

Q So that below standard classrooms existed in schools in Scotland Neck and the predominantly Negro schools?

A I didn't get your full question.

Q Below standard classrooms existed at the predominantly white schools in Scotland Neck as well as the predominantly Negro schools?

A Yes, there were some in each.

Q Are you prepared now to give us the number of courses, the total number of courses at each high school for the 1968-69 school year?

A Yes, I have that information.

Q Can you give us the name of the school and the total number of courses, please, for 1968-69?

A Aurelian Springs—this is high school, of course—35 courses. The Brawley School, 45. Eastman, 39. Enfield, 33. Inborden, 33. McIver, 31. Davie, 36. Scotland Neck, 39. And Armstrong Chaloner, 28.

Q Do you have information—let me ask the question this way: did your office or people working with your office conduct a survey to determine the number of white and Negro children residing in each of the geographic areas which appeared on the map submitted along with the proposed desegregation plan in February 1969?

A Yes, that is, it showed—it was not accurate, but an estimate of the number, yes.

Q Do you have those figures with you now?

A No, I do not. I'm going to have to refer to another map. I didn't have time to look that up.

Q We will wait for that. Does—do you know of the existence of another survey done in the Spring of 1969 to identify the number of white and Negro children in the Scotland Neck area which would show how many reside within the town and how many without, outside the town?

A Yes.

Q Do you have the results of that?

A All right. This information is for those that live within the corporate limits of Scotland Neck as determined by the survey. What breakdown would you like on this?

Q Well—

A Just total white and total Negro?

Q Yes, sir.

A And these were in school at Scotland Neck at the time this survey was conducted.

Q All right, sir.

A 399 white and 296 Negro, and the total pupils, 695.

Q How about the number of pupils who were going to school in the Scotland Neck area that lived outside of the Town of Scotland Neck?

A Well , it would be the difference between the 695 and the actual enrollment of the Scotland Neck school, and I don't know that I have a breakdown by race on that.

Q You read it to us, I believe, at the first part of the deposition—the total numbers?

A Well, that was total, including the Scotland Neck Town—the Town of Scotland Neck.

Q Right. So, if we would take that figure and subtract from it the figure that you have just given us, would that give us the number?

A I don't know how many living outside of Scotland Neck were white and how many were Negro. I can give you the difference there. The enrollment was six hundred—I mean nine hundred—

Q Let me clarify one thing. The 399 whites and the 296 Negroes—those are the number of pupils who attended county schools for the 1968-69 school year who live in the town limits of Scotland Neck, is that correct?

A That's right.

Q Do you know where those students went to school last year?

A Some of them went to Brawley School and some went to Scotland Neck.

Q Did any of the white children go to Brawley School?

A No.

Q So all the white children, all 399, went to Scotland Neck?

A Yes.

Q And some of the 296 Negroes went to Brawley?

A Yes.

Q Do you know how many?

A No, I do not know. We have that information compiled.

Q Well, then, at least the number of white children attending Scotland Neck in excess of 399 live outside the City of Scotland Neck, is that right?

A No. A number of those, lived outside of Scotland Neck, were Negroes.

Q Well, you told us that the number of white children in schools who live in Scotland Neck, which is 399—is that right?

A Right.

Q And then we know the total number of white children at the Scotland Neck School, don't we?

A Yes.

Q Wouldn't the difference be—wouldn't the difference equal the number of white children who lived outside of the Town of Scotland Neck?

A They would not because there were Negroes and white coming from outside of Scotland Neck, attending school at Scotland Neck last year. You see, we transferred—

Q Let's go back. Let's go back. Did you tell us, reading I think from the HEW forms for the 1968-69 school year, that for Scotland Neck there was a total of 797 children?

A 979 total, Scotland Neck.

Q 979?

A Yes.

Q [illegible] there were 193 Negro children?

A [illegible]

Q So if you subtract 193 from the 797, you get 786, is that right?

A Repeat that please.

Q If you subtract the number of Negro children from the 797 and the—979, you get the number 786, is that right?

A Yes.

Q Is that the number of white children at the Scotland Neck School?

A That attended school last year, yes, that is correct.

Q Your survey showed that 399 white children live in the Town of Scotland Neck?

A Yes.

Q Now, if we subtract the number of white children inside the Town of Scotland Neck, 399, from the total number of white children at the Scotland Neck School, 786, don't we get the number of white children who lived outside the Town of Scotland Neck?

A No, because we have both Negro and white coming from outside of Scotland Neck last year.

Q I realize that, Mr. Overman, but it seems to me we— can we go off the record for a minute.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Isn't it true, then, that if you subtract the number of white children in Scotland Neck, 399, from the total number of white children, 786, who attended the 1968-69 Scotland Neck school, you get the number 387 white children?

A That's right.

Q Those 387 white children live outside the Town of Scotland Neck?

A Yes . . . . 377 it is.

Q 387.

A 387.

Q Do you know where those—strike that, please. Do you have the operating cost for the Halifax County School System for the 1968-69 school year?

A I do not have that entire information, because you are including, I suppose, all sources of funds—State funds, federal funds, and County funds—and we do not have that compiled.

Q I see. Do you have any one of those three categories?

A I have the local funds, the County funds, which also includes federal funds and State funds. They are handled through our office, through our local budget, but the source of them—some are State and some are federal. For example, we get matching funds for vocational teachers—State and federal funds. And we have not broken this down, so the only thing that I could give you at this time is the amount of funds that we have expended through our local budget from the three sources.

Q Okay.

A And it is $596,639.29. Now, what portion of that is federal funds and State funds I do not know.

Q Does that include the capital outlay funds that you were talking about earlier?

A No, it does not. The capital outlay expenditures during this year were $398,372.73.

Q Are there any other funds that the County School Board administers with respect to county schools?

A Yes. The ESEA Title I funds. I don't have the figures on this. We could get this. And that is federal funds, of course.

Q Yes, sir.

A But they are administered. And then, of course, State funds that we draw the checks directly upon the State treasurer for. We do not have a tabulation of that at present.

Q What do the State funds that you draw directly—where do they go, what kind of expenditures?

A Well, the largest item is instructional expense, payment of teachers' salaries. And then all areas of current expense come from State funds, except one section of the budget we call maintenance of plant. That is the building repairs to the—that pays for furniture, replacement of furniture, and buildings and grounds repairs. It includes that section. The State does not pay any portion of that.

Q Do you have a list of inventories and plant evaluations for the 1968-69 year?

A Yes, I do.

Q Do you have it broken down by schools, sir?

A Yes, sir. I have this only from insurance records.

Q All right, sir. Can you tell us the total figures for the school system first, please?

A You want last year's, 1968-69?

Q Please.

A All right. Just one moment. Now these are values that are set up by the representative of the division of insurance, with whom we carry our building insurance. Total, $6,029,700.00. That is buildings. Now the contents values—we insure those at what we consider about seventy-five percent of the value. And that figure was $997,800.00, making a total of $7,027,500.00.

Q Do you know the plant, in the inventory evaluation, for the Scotland Neck School for the 1968-69 school year?

A Yes.

Q Would you give us that, please?

A I will have to do some adding here because they are broken down by buildings.

Q If you will just read—how long is that list, Mr. Overman?

A Oh, there is six separate buildings.

Q Maybe you just can read the whole thing.

A Beg your pardon.

Q Could you read them into the record, please, and we can add them up later?

A All right. Do you want to name the buildings or just the amount of funds?

Q Just the amounts, please.

A All right. $90.000.00 for one building. $60,000.00 for another. $135,000.00 for another. $16,000.00 for an other, a small building. $95,000.00 for another building. and $500.00 for a storage building. And we have what is called the Scotland Neck principal's home. Do you want to include this?

Q Yes, sir.

A $8500.00. And the garage at location, $400.00. Now they are the values of the buildings that are now in the Scotland Neck Administrative Unit. Now we have the Scotland Neck Junior High School that was operated in our unit during this year. Do you wish to include that?

Q Yes, sir.

A That is $96,000.00. They are the values of the buildings, and the contents would be as follows: $26,-600.00. $23,000.00 $4,600.00. $3,200.00. $10,400.00. And the contents of $3,500.00. And then the mobile classroom units. These units were moved about from one place to another. And I don't know that I can identify them with the information I have here. I have another sheet that I can find and identify those if you want me to be excused to get that.

Q No. Can you tell me the number of mobile units at the main Scotland Neck campus?

A One, that value: $5300.00, building. $1200.00, contents.

Q And the number of mobile classrooms at the Junior High School campus?

A Eight. And an average would be $5600.00. And there is some variation here, depending on the average of those units, but I would say an average would be $5600.00 for those eight. And $1200.00, contents.

Q Do you know the extent of real and personal property which has been transferred from the Halifax County Board to the City Administrative unit as required by state law?

A Well, it would be those figures that I gave you, with the exception of those located at the Scotland Neck Junior High School.

Q All right. Have there been any additional items, like books, that have been transferred to—

A Oh, yes, all of the equipment, the library books, textbooks, and supplies—all of this was transferred.

Q Were they the ones, the books that were at the Scotland Neck school during this past school year, they just remained there?

A Yes. Well, there has not been a division of some of these things as of the present, so I would not know how many books will remain there.

Q Were there items in addition—were there items that were transferred to the Scotland Neck City Board in addition to those that were used at the—Scotland Neck last year? Did you go to other schools and get some property that you had to transfer to the Scotland Neck school Board?

A No. Now there has been a proposal for leasing the Scotland Neck Junior High School building and equipment, but it has not been executed yet.

Q What is required to complete that proposal?

A Well, the Halifax County Board of Education has submitted a proposal and the terms of the lease agreement. It has not yet been accepted by the Scotland Neck Board of Education that I know about.

Q Are there any steps beyond that that are required to culminate the lease? Does anybody else have to approve it, other than the Scotland Neck City Board?

A No. Just between the two boards.

Q What are the terms of the lease, the financial terms?

A Well, the financial terms would be a lease for one year at a time and for the sum of one dollar per year.

Q Yes, sir. And the Scotland Neck Board—excuse me. The Halifax County Board has approved it?

A Yes, and proposed this to the Scotland Neck School Board.

Q Now I believe that—do you have written materials dealing with obtaining information about the creation of the separate school system for Scotland Neck?

A Will you repeat the question?

Q Did you get a subpoena duces tecum, a subpoena, to bring some documents here to this deposition?

A I received it Sunday night at ten o'clock, is when it was delivered to me. I was out of the office on Friday.

Q I see.

A And so I didn't have that until ten o'clock last night. And I have it here with me, yes.

Q I believe Item 4 requests any materials you have concerning the creation of the separate independent school system of Scotland Neck?

A Correspondence.

Q Item # 4, please.

A Yes.

Q Do you have such materials?

A Well, only letters that were written to the Chairman of the Board of Education about pupil—pupil assignment, and gotten from the survey that was run, free choice survey.

Q Could I see those letters?

A I think I have copies of those in the folder. I'm not certain. And I did have one in regard to preparing floors for use. One in regard to the extension of the Scotland Neck School boundaries to include the location of the junior high school. Here are two letters. The others are not in this folder. They can be located. Would you want to take the time? I think about two other letters.

Q Well, we could take time at lunch period. These are the only two letters you have, two letters?

A I have two others.

Q A total of four?
A I think so. I believe that is it.
Q Mr. Overman, I am looking at a letter on the stationery of the Board of Education, State of North Carolina. The letter dated June 11, 1969, addressed to Mr. Frank P. Shields, Chairman, Scotland Neck City School Administrative Unit, Scotland Neck, North Carolina. Are you familiar with what—
A This is the State Board of Education letter.
Q —with what Mr. Davis is talking about in his letter?
A Yes.
Q What the background is?
A Yes.
MR. KENNEDY (To Witness): Would you show that to Mr. Josey and Mr. Crew.
Q (Mr. Kennedy) Do you know what the gentleman has reference to in his letter, what he is talking about?
A Yes. The Halifax County Board of Education and the Scotland Neck Board of Education met jointly and passed a resolution that the junior high school location, ten acres of land which is adjacent to the town boundaries of Scotland Neck, adjoining that unit, passed a resolution that this property may become a part of the Scotland Neck unit. When I say property, I mean the land. And those resolutions were presented to the State Board of Education and the State Board of Education by this letter approved the extension of the Scotland Neck School Administrative Unit. But that particular thing did not convey with it any buildings or property.
Q I see. Is that the reason then this—the lease was necessary?
A Yes.
Q The lease?
A That's correct.
Q So that is it true, then, that the boundary line of the Scotland Neck City Administrative Unit now includes this junior high school campus?
A That's correct.
Q And the junior high school campus, although owned by the County, has been leased to and will be operated by the City system?

A The property located on that has been leased or offered for lease.

Q Offered for lease?

A Yes.

Q Thank you. Are there in existence any agreements between the County Board and the City Board with respect to pupils who reside in the County who may wish to go to school in the City of Scotland Neck?

A There has been no written agreement, except an understanding that they may be allowed to go from one unit to the other.

Q I see. Do you know how many students—what amount—the number of students that would be involved in this?

A An estimate of about 300. Wait. Let me get the exact figure on that. 345.

Q What is the race?

A That is an estimate.

Q What is the race of those children, sir?

A I cannot tell you because these forms were turned over to the Scotland Neck School Administrative Unit.

Q What forms are those?

A A survey. That is, the free choice forms.

Q So this figure that you have given is a result of a number of survey forms that were turned over to the—

A Yes.

Q —to the Scotland Neck Board. Do you have any record of the names of these students?

A Yes, they are by name, that is correct.

Q Do you have a record—

A I don't know that the race is indicated at all by name.

Q Where did these children go to school last year, sir?

A They went to Scotland Neck. That is, part of them did. Now I don't know whether they are Negroes or not, that went to Brawley School. There may be a few of those.

Q Are these 334 children?

A That is approximately.

Q They are children who chose the Scotland Neck School for the coming year?

A Yes.

Q And you have previously given us, I believe, the number of—number of white children and the number of Negro children who chose the Scotland Neck School for this year, is that correct?

A Yes.

Q And you have previously given us the number of white children and Negro children who live within the Town of Scotland Neck—the pupils, that is?

A Yes. Those that were in attendance last year. It may not correspond with this year's enrollment.

Q That number, 334, children who chose Scotland Neck and who live outside of Scotland Neck is very close to the number of 387 children which you previously determined is the number of white children who went to Scotland Neck School last year and who live outside of the Town of Scotland Neck—isn't that so?

A Well, there is a variation there of about 40 children.

Q Forty children. Do you know what conditions these 334 children will have to meet in order to go to Scotland Neck Schools?

A I do not know the full details.

Q Do you know if there will be any children who live inside of Scotland Neck who will go outside of Scotland Neck to a county school?

A At this time the juniors and the seniors who live in Scotland Neck would be allowed to go by choice to Brawley School.

Q Those, of course, are all Negro students?

A I would assume, yes.

Q Well, there are no white students, no white child that chose Brawley School, was there?

A I would say: no.

Q Do you know of any tuition agreements?

A I don't know definitely about tuition agreements.

Q Is there any tuition requirement for juniors and seniors who live in Scotland Neck who want to go to Brawley for this coming year?

A No.

(LUNCHEON RECESS)

Q (Mr. Kennedy) Mr. Overman, you have figures that show the per pupil expenditure from local sources for the Halifax County Administrative Unit during a recent school year, preferably the last school year?

A I have it for 1967-68 school year.

Q Would you give us that, please?

A Now, this is not by school.

Q Right.

A It is by the entire unit.

Q Right.

A And you want the amount of per pupil expenditure from each source—State, federal, and local?

Q Please.

A For the State funds, $328.39. Federal, $129.70. Local, $42.58, for a total of $492.67. This does not include lunchroom, child feeding services. And it does not include capital outlay. These are figures compiled in Raleigh by the State Department of Public Instruction.

Q With respect to capital outlay, does—is there still a sum of money available to the County Administrative Unit from a recent State bond issue?

A Yes.

Q Do you know that figure, sir?

A $837,000.00—in round figures. I can give you the exact figure if you'd like that.

Q That is all right as you gave it. Was that, or does the creation of the new Scotland Neck City Administrative Unit decrease that amount of money that $129,000?

A Well, it hasn't up to this time.

Q Has the Halifax County Administrative Unit secured a legal opinion from the State Attorney General's office?

A Yes, they have.

Q Without stating the substance of the legal opinion, do you know whether the Attorney General's Office stated that the money would remain in tact for the County Administrative units?

MR. JOSEY: Object.

Q (Mr. Kennedy) Can you answer that, please?

A Yes, that was the opinion of the Attorney General's Office.

Q Do you know whether that any of that $829,000.00 then will be allocated to the new city unit in Scotland Neck?

A $837,000.00—was that the figure I gave?

Q Yes, sir.

A I cannot say at this time. It is our present—we say it is the Halifax County Board of Education allotment.

Q Are there any agreements betewen the county administrative unit and the city administrative unit to transfer any or a portion of that money to the city unit?

A No.

Q So that even with the loss of the Scotland Neck school under the creation of the new city school unit, that sum of money from the capital improvement fund from the State is still available to the county administrative unit?

A Yes.

Q Are you familiar with a report entitled "The Report of the Governor's Study Commission on the Public School System?"

A Yes.

Q Of North Carolina. Dated December 3, 1968?

A Yes.

Q Are you familiar with the recommendations made in the Governor's Study Commission Report relative to the size of school administrative units?

A Yes, reasonably so.

Q Are you in agreement with those conclusions?

MR. CREW: I believe I would object.

MR. KENNEDY (To Witness): You can answer that, sir.

A I would say partially.

Q (Mr. Kennedy) Can you—what portions are you not in agreement with, to what extent?

A Well, I don't have it just before me right now, and if you would ask some specific question I would be glad to answer that.

Q I'll try to do that for you. I am handing you a copy of the Report of the Governor's Study Commission.

of the Public School System in North Carolina, dated December 1968, and on pages 163 and 164 is a quotation from the 1948 study conducted by the North Carolina State Education Committee, carrying over to page 164. With permission of counsel I will read a paragraph and ask you to comment if you are in favor or disagreement with this.

MR. JOSEY: You say with permission of counsel?

MR. KENNEDY: Yes, sir.

MR. JOSEY: I object.

Q (Mr. Kennedy) I will ask you to read then the first full paragraph on top of page 164 and ask you if you are basically in agreement with that, the first full and fifth paragraph, and ask you if you are basically in agreement with those paragraphs?

MR. JOSEY: I object.

A Since the local administrative unit should be sufficiently large enough to warrant the provision of all the essential administrative and supervisory services, local units of school administration which are established in the future should be organized so as to insure any unit an absolute minimum of 3500 to 4,000 school population and a desirable school minimum of 9,000 to 10,000 school population. Except as it is found to be administratively practical, secondary schools should be established so as to insure an absolute minimum enrollment of 300 pupils and a desirable minimum of 500 to 600 pupils. A four-year secondary school should have an absolute minimum of 600 to 700 students and a desirable minimum of 900 to 1,000 students.

MR. JOSEY: Now we object to the answering of that question because you are taking one section out of a book that I would estimate is a hundred fifty pages, and I don't see how—we have a hundred counties in the State, and I do not see how his opinion with respect to one county, one paragraph out of a hundred fifty pages, would be fair to anyone in giving that answer.

Q (Mr. Kennedy) Would you answer the question, please, sir?

A Well, I think I would have to answer the question based on conditions. I think it is desirable to have a large

enough high school set up to have—as far as possible, to meet the needs and the desires of the high school students in their training so that there might be academic courses, vocational courses, and courses that would prepare them for college or university, and courses that would at least prepare partially for vocations, and these particular numbers may or may not fit into a circumstance. I can't give you a yes or no answer for these particular figures.

Q Do you know of any group of professional educators in this State who say that that is not a desirable criteria?

A You mean these numbers or the idea of larger high schools, or what is your question?

Q Larger high schools specifically, as stated in the two paragraphs that you just read.

A I think the professional organization has stated that they would approve this criteria.

Q What professional organization is that, sir?

A North Carolina Teachers Association.

Q Are you familiar, Mr. Overman, with a book entitled "High Schools in the South," a fact book published by the George Peabody College for Teachers, in Nashville, Tennessee?

A I am not very familiar with it. I know there is a publication but I do not know the contents very well.

Q Are you familiar with the recommendations that this book makes with respect to acceptable minimum standards for high school size as far as teachers and students go?

A No.

MR. CREW: We would object in that he has said he is not familiar with it.

Q (Mr. Kennedy) I am asking in particular—all right, sir. Do you know—strike that, please. Are there certificates issued by the State education officials to all the teachers that teach in North Carolina public schools, sir?

A Either a certificate or what is known as a salary rating or a rating. There are times when all of the re-

quirements have not been met for a particular certificate, or requirements on the national teacher examination. They will establish a rating for a period of time, until the deficiencies can be removed.

Q Are there different certificates for primary and for high school teachers?

A There are different certificates for elementary and high school certificates.

Q Are they known as, respectively, elementary certificates and high school certificates?

A Yes.

Q Is there something called an "A" certificate?

A Yes, a Class "A" Certificate.

Q What does that mean, sir?

A That means a college or university graduate, and having met all the educational requirements of the State Department of Public Instruction, and also having passed successfully the national teacher examination.

Q Is that minimum requirement, sir, or an actual requirement?

A For a Class "A" Certificate?

Q No, is a Class "A" Certificate a maximum or a minimum requirement for a teacher, that he has to have this in order to teach?

A Class "B" Certificates may be granted, but that is the lowest one that they will issue at this time.

Q During the year that just passed how many of the teachers in the Halifax County System had "B" Certificates?

A Had "B" Certificates?

Q Yes, sir.

A I do not know. I started to gathering some of this information that you called for, but I haven't gotten that particular information.

Q Do you know how many teachers whose certificates are for elementary grades are teaching something other than elementary grades, that is, during the past year?

A I do not know the number. I do know that we have teachers that have high school certificates that are teaching in the upper elementary grades, seven and eight.

There are none who have elementary certificates that are teaching in high school that I know about.

Q Do you know how many there are in the group approximately who have high school certificates who are teaching the seventh and eighth grades?

A I do not.

Q You said you didn't know how many teachers there were who had "B" Certificates?

A No.

Q Do you know what schools they were located in last year?

A No, I do not have that information. I can probably have a report that I can refer to without much trouble and find this out.

MR. KENNEDY: Well, may be we will get it at the break.

THE WITNESS: All right.

Q (Mr. Kennedy) Do you have statistics indicating either the residence or the school attendance of pupils who qualify for the financial assistance under the Elementary and Secondary Education Act?

A Yes.

Q Do you know how many of these pupils there are at each school?

A I do not have that information at present. I think it is available. We will be glad to get that information if you like.

Q Do you have correspondence or any notes or writings with respect to the creation of the separate school system for the Littleton-Lake Gaston area?

A No correspondence concerning that.

Q Any reports—do you have any reports or studies or anything written down, your notes or—

A No.

Q Or proposals or complaints?

A No.

Q Oh, you indicated before we took the lunch break that there were two other letters concerning the Scotland Neck system.

A This is one that I had reference to in regard to the tabulation or the results of the free choice survey studies as it pertains to the Scotland Neck School Unit.

Q Do you mind if I take a look at that, sir?

A All right.

Q What is the other one?

A Well, this is just information about—this has to do with pupils, also.

Q Would you—this letter is two pages. Would it be possible for you to get a copy of this, rather than to read it into the record?

A Yes, I guess so.

MR. JOSEY: Let me see that.

MR. KENNEDY: Two copies. One for the lady and one for us.

THE WITNESS: All right.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Overman, just for the purposes of the record, can we get your own personal education, please, professional education, please?

A Yes.

Q Tell us what that is.

A Beyond high school?

Q Yes, sir.

A Well, I am a graduate of Wake Forest College—it was at that time—Wake Forest University, now. And I have an A.B. Degree and I have a masters degree from East Carolina University. And I have taken courses beyond the masters degree at East Carolina University.

Q How long have you been superintendent in this association?

A In this unit?

Q Yes, sir.

A Twenty-two years.

Q Have you been a superintendent—were you a superintendent before that?

A Yes.

Q Where was that, sir?

A In Gates County.

Q For how long?
A Eleven and a half years.
Q What was your professional experience before that?
A I taught four years.
Q In North Carolina Schools?
A In North Carolina Schools. In Nash County Schools.
Q Have you, or your staff, ever considered possibilities of reorganizing the grade structures between the Scotland Neck and the Brawley Schools—you are familiar with what we call pairing, aren't you, Mr. Overman?
A Oh, yes. Yes.
Q Have you ever considered pairing those two schools?
A Well, this was partially, a part of it. When I say partially I mean there was some pairing in this plan that was submitted and another part of it was a freedom of choice between—
Q Have you ever considered—has the school system considered a pairing without any free choice involved for the Brawley and Scotland Neck Schools?
MR. CREW: I would object. I don't see that it would be pertinent, what they considered would be concerned with what they have done.
MR. KENNEDY: What they have attempted to do in order to comply both with the law and with the administrative school system.
MR. JOSEY: You are trying to pick his mind—
MR. KENNEDY: Considered or planned.
MR. JOSEY: What he thought about.
A This was a part of the plan, as I say, that was submitted to the Justice Department, to pair the Brawley and the Scotland Neck Schools, and then there was a portion of it was freedom of choice. I am sure you are familiar with that.
Q (Mr. Kennedy) Yes, sir.
A And if you would like a breakdown—
Q How much free choice—with respect to what grades was there going to be free choice at Brawley?
A Brawley School would have grades one through five and nine through twelve. Scotland Neck would have one through twelve. There would be a choice of either of

those schools. Now Scotland Neck, of course, would have only six through eight. As you can see from this. And here are the figures estimated. Have Brawley first, one through four and seven through nine, 1070 pupils. Scotland Neck would have had in the middle school, five through six, 255 pupils. And, of course, the choice there of ten and eleven, we could not estimate that because that would have been according to choice. Now if you want the breakdown by races that we estimated at that time—

Q Well, what grades were open for free choice?

A Well, actually, the grades that were open for choice was one through twelve at Scotland Neck. Brawley, nine through twelve, was open for choice.

Q There was no choice for the children at Brawley, grades one through eight?

A One through five would have been assigned to Brawley. They would have had a choice, yes. All one through twelve. Scotland Neck would have had a choice and Brawley would have had a choice. But grades six through eight would have been assigned to Scotland Neck.

Q I see. There would be no grades six through eight taught at Brawley?

A Right. That's correct.

Q So the free choice would have been grades one through five at both schools?

A Right, and then nine through twelve.

Q At both schools?

A Right.

Q I see. You told us a little earlier that there were approximately 44 or 46 teachers that taught at Scotland Neck last year. Do you know where those teachers were going to be teaching this coming year, sir?

A Where they will be teaching?

Q Yes, sir.

A No, I don't know, all of them.

Q Do you know if any of them will be teaching for the County School System?

A Yes, some of those will be teaching for the County School System.

Q Do you know how many?
A There are three that I know of—four. There are four.
Q What are their race?
A We have three white teachers and one Negro teacher.
Q Does the School Board keep a personnel file that contains information about the certificate of each teacher—each teacher possesses who teaches in the school system?
A Yes.
Q Do you have that information with respect to the teachers who taught last year in the Scotland Neck system?
A Yes.
Q You still have that?
A Yes. We do not have them filed together by schools. They are in our files alphabetically.
Q Are you planning to retain that information?
A Yes, we will retain these teachers who are no longer teaching in our unit in the inactive file for reference at any time we need them.
Q I see. Now, with respect to the creation of the Scotland Neck City Administrative Unit, do you know of any educational advantages that would be available to the students in Scotland Neck, that would come from the creation of the Scotland Neck City Unit?
A Now, are you speaking of the course—courses that would be offered in Scotland Neck, or are you referring to an over-all generalization?
Q I am going to hand you what I have just shown Mr. Josey and Mr. Crew, a document at the top of which says North Carolina General Assembly, 1969 Session, Ratified Bill, Chapter 31, House Bill 22. And the next line reads: An Act to improve and provide public schools of a higher standard for the residents of Scotland Neck and Halifax County, to establish the Scotland Neck City Unit. There are several other lines following that. This is a copy of the bill that created the Scotland Neck City System, is that correct?
A Yes. I am familiar with that, yes.

Q Do you know what some of those, or what any—what are the standards by which the creation of the school system will improve the schools of Scotland Neck?

A I do not know about the courses of study or the courses that will be offered in the Scotland Neck school for next year. My only comment could be that by virtue of the fact that they will have the supplemental tax that that will mean for that school unit they will have more money per child than they would had they remained in the County Unit, of local money. When I speak of local money, County money is what I'm talking about.

Q Do you know how much more money they will have in the Scotland Neck Unit?

A Well, it is fifty cents on the one hundred dollar valuation. As I remember, the valuation of that property in that unit is somewhere near five million dollars. I would like to be corrected if I am not correct. And so that would give you the amount of money.

Q How much is that, sir, what—that would be available?

A $25,000.00. That is an approximate figure. It is not exactly five million—the property evaluation.

Q So it would be about $25,000.00, give or take some?

A Yes.

Q Do you know what this money is going to be used for, sir?

A No, I do not.

Q Now do you know if the Scotland Neck City Unit can provide the same quality of educational program for the coming year, and at what cost per pupil they can provide that program or will—strike that question. Do you know whether the city system's per pupil cost to provide the same educational program as the County provided this past year, do you know whether that per pupil cost will rise or remain the same or be lower?

A Well, I would assume that it will be—that it will rise, yes.

Q Why so?

A Because of the extra money that they will get from the supplemental tax. But the total, I am not able to answer that, how much it will rise.

Q Without the students in Scotland Neck, the seven hundred plus students that you told us about earlier living inside the Town, that leaves something around 9,000 students in the County system, is that right, sir?

A Yes, sir.

Q Now can the Scotland Neck City system provide for the coming year the same kind of educational program as—on exactly the same per pupil cost as the County provided for the past year?

A Well, I can't answer your question so far as the schedule of courses and classes is concerned—the types—because this will be worked out in the Scotland Neck School Administrative Unit. And I would assume it would be as—certainly on the same level as the County. Would not be below that level.

Q That the educational program would remain the same, sir?

A I do not know, as I say, about courses to be offered and so on.

Q Let me ask you the question a little differently. If we can assume for a minute that the educational program for the coming year, conducted by the Scotland Neck Board, will remain the same as that just this past year provided by the Halifax County Board, will the Scotland Neck Board have to spend more money per pupil to accomplish that same end than the County spent the last year to educate those students on a per pupil basis?

MR. JOSEY: Object. He said he didn't know.

A That is what I was just saying, that I do not know.

Q (Mr. Kennedy) Do you know anybody who does know?

A I would assume the new superintendent of schools working on the schedule for the Scotland Neck High School. I don't know whether he's completed it or not.

Q Do you know anybody in addition to the superintendent who had an opinion or had information relative to the kind of program that could be provided for a certain amount of money in Scotland Neck?

A Members of the Scotland Neck School Board would probably have information.

Q Did you give them any information about operating costs for schools down there?

A I don't recall, except that this booklet was available to anyone who asked for it, and I don't recall whether the chairman of the board of education of Scotland Neck got a copy of this or not. Now this is 1967-68.

Q What is the name of the document you are referring to?

A Current Expenditures by Sources of Funds.

Q Is this document applicable to Halifax County?

A No. For the whole State.

Q For the whole State?

A From Scotland Neck—I mean from the full report.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Overman, does this document show the average pupil expenditures for all of the county administrative units in North Carolina?

A Yes.

Q Is that also—is that figure also broken down as to source, and as to source as to whether it is State, federal and local?

A It does.

Q Would you read the per pupil expenditure county average and identify the source, please?

A County average, the source, of the State funds, $326.21. Federal, $69.17. Local, $69.02. And total, $464.40.

Q Is there also the same figures for the city administrative units?

A The city administrative units average, State, $316.07. Federal, $53.95. Local, $97.59. Total, $468.24.

Q Would you read the State average, the combined average?

A The combined average for the State from State funds, $323.74. Federal, $65.21. Local, $76.44. Total, $465.39.

Q Thank you, sir. Referring once more to the teachers who taught this past year at the Scotland Neck School, you mentioned that some four teachers from the 46 will be teaching in the County Schools this fall, is that right?

A Yes.

Q Do you anticipate getting any other teachers from that group to teach in the County schools this fall?

A I do not know at this time.

Q When will you open school, sir?

A The latter part of August, the 26th or 27th.

Q Is that the first day of school?

A I think the first day of school for pupils, full day, is the 28th I believe. That is correct. Thursday, the last week in August.

Q So there are roughly seven weeks left before school opens up—six or seven weeks?

A A little more than six weeks, yes. Pupils will attend on the 27th day. It is not a full school day. What we call teacher-pupil orientation day, for assignments, issuing of books, and other matters.

Q Is there some kind of a summer school program being conducted by the County Board right now, sir?

A Yes.

Q How many teachers are involved in that?

A I do not have that number.

Q Approximately.

A It doesn't register with me right now. I have that information and will be glad to get it for you.

Q Is it about 84 teachers?

A At least that number.

Q Approximately how many children involved?

A I do not know that number.

Q Do you know of any summer school program being conducted by the Scotland Neck Board?

A No.

Q Do you know of any specific areas in which the Scotland Neck Board is going to improve the education or attempt to improve the education for the children in Scotland Neck?

A I have answered that, I believe, before, that I can only say that there will be more funds available because of the supplemental tax. Now so far as the school curriculum is concerned, I do not know about this.

Q Is it generally true that it costs a unit the size of Halifax County less per pupil to provide an education

program than it would cost per pupil a system the size of Scotland Neck to provide the exact same program?

A Would you repeat that, please?

(QUESTION READ)

A Well, it is a difficult question to answer. If you are considering finances, I think that is true. But so far as curriculum is concerned I do not know.

Q Referring back again to the interim plan suggested in the 1968 survey, what administrative difficulties, if any, are there which would possibly delay—strike that question, please.

Referring to the interim plan, what possible administrative difficulties would there be if the school board were ordered to adopt that interim plan for the 1969-70 school year?

MR. CREW: Wasn't that question asked this morning?

MR. KENNEDY: I didn't ask this specific question.

A I would like to comment further on that question.

MR. KENNEDY: I didn't ask the specific date. I think that is the difference.

A I was talking in terms of finances only when I answered that question this morning. But there are many administrative difficulties on a short notice to get ready for the—putting in the new plan of operation for a—the next school term. We would be involved, of course, in moving all of these temporary units, mobile units, which takes considerable time. We would be involved in rerouting all of the school busses, transportation difficulty. Transferring of books, library books, textbooks, and equipment, pupil furniture, and many other things.

Q How many of the approximately 15 mobile units would have to be moved?

A I really do not know. I would have to review these recommendations to give an answer to that. But I am certain that there would be many that would have to be moved.

Q Are there changes in the bus routes that have to be made from year to year, or do they remain the same from year to year?

A Well, if the schools have the same kinds of organization year after year, there are not many changes.

Q Some?

A There are some, yes, some adjustments, but to completely revise the organization would require a complete reorganization of transportation.

Q I am referring to page 17 of the Exhibit #2. There is a map that appears there. In the Scotland Neck-Brawley area of the County, if I am correct, there are two schools where high school grades are taught, at Scotland Neck and Brawley. That is east of the Enfield schools, the Inborden Schools, but the Tillery Chapel, Dawson, and Thomas Shields and Bakers schools are all grades one through eight, is that correct?

A That's correct. You're talking about last year?

Q Last year, that's right.

A Yes.

Q Now are the high school students who live in the area of Tillery Chapel, are they bussed directly into the high schools in Scotland Neck or do they make a stop first at Tillery Chapel?

A Yes, there may be some stops there, but right many of the high school students have express busses to Brawley.

Q Without making—where do they start, do they start at Tillery Chapel?

A Well, we had transportation arranged this way: that the elementary children go into Tillery Chapel and then they reload on high school busses. Now some of those high school busses have to pick up elementary children when they get into the Brawley Elementary District, but for the most part there are not very many pickups on those busses.

Q Would the same be true for Dawson and Thomas Shields, that there are some high school students that have to make a stop at those respective elementary grades?

A That's correct. Now, Thomas Shields, I think there are more stops made for serving elementary children that attend the Brawley and/or Scotland Neck School as it was organized last year because we had the

seventh and eighth grades—no. I beg your pardon. This was only in the Brawley area. They had one through eight at Thomas Shields, that's correct.

Q Do the children riding busses—correction. Do the children, who live in the area of Tillery Chapel ride busses to the Scotland Neck School, do they make a stop also at Tillery Chapel?

A Yes.

Q So these are the busses that go to the predominantly white schools?

A That's correct.

Q Are there white children on these busses that stop at Tillery Chapel?

A As they stop at Tillery Chapel?

Q Yes, before going to Scotland Neck.

A No. No.

Q So the only busses that stop at Tillery Chapel are the busses that go to Brawley?

A That go to Brawley, and then there are some that might ride, elementary children, seventh and eighth grade, would go over to the Scotland Neck Junior High School.

Q Well, are there busses that go in that area of Tillery Chapel that take children directly to the Scotland Neck school?

A No, not this year.

Q Are there white children that live in the area of Tillery Chapel that go to the Scotland Neck School?

A There are.

Q Do some of them ride the bus?

A They ride busses that go directly to Scotland Neck School, but they do not——

Q You run both busses that go——

A Yes.

Q ——go to Tillery Chapel and then go to Brawley?

A Yes.

Q In the same area. Would the same area pick up white children and go into the Scotland Neck School?

A That is correct.

Q Do these busses that go to Scotland Neck direct and the busses that go to Tillery Chapel then to Brawley run down some of the same roads?

A Yes, they do. Yes.

Q Well, do you have white children riding the busses who live in the area of Thomas Shields School?

A Yes.

Q Do they——

A Now——

Q Do they go directly to the Scotland Neck School?

A They do, yes.

Q Are there children who live in the area of Thomas Shields who go to the Thomas Shields School by bus?

A Yes.

Q And then do the children who are bussed from Thomas Shields into Brawley?

A Yes, high school children.

Q And these busses that—from the Thomas Shields area that go to Scotland Neck and the ones that go to Brawley, do they also run down the same roads?

A Some of them do, yes.

Q So that is another area of the County where busses going to predominantly white schools and busses going to the predominantly Negro schools go down the same roads?

A That is correct—in operation last year?

Q The last school year.

A Yes. Now—

Q Excuse me.

A Let me explain this. If there were children assigned to a Scotland Neck school, regardless of their race, they were transported on these busses that went to that particular school, Scotland Neck, and they loaded on those busses rather than to be transported to Scotland Neck and then to Brawley and then to Scotland Neck. These children who are assigned to Scotland Neck School rode on the busses that terminated at Scotland Neck.

Q Well, as of last year is it true that there was a system of busses, one that went into the geographic area and picked up children and took them to Scotland Neck School, and another set of busses that went into the same geographic area and took the children to the Brawley School?

A That's correct, unless these children were assigned to their particular school, they rode on the bus that went to some other school. If I might explain this. And let's get back to Thomas Shields now. There are busses operating in the Thomas Shields area, some busses going to Scotland Neck School, and whenever children were assigned to Scotland Neck School were transported on those busses, whatever children were assigned to Brawley School were transported to Brawley School, and then we had some that were picked up in the Brawley Elementary area, which is smaller than this whole area of course, because there are four elementary schools served in that area.

Q How long does it take to drive a school bus from the main Scotland Neck campus to the Brawley campus, if you know?

A You're talking about loading the children now, or just driving?

Q No, sir, just driving.

A Just driving the bus—I would say five minutes.

Q How far away are they?

A Not more than a mile. Hardly a mile I believe. Now this is the main campus of Scotland Neck you're talking about?

Q Right. Let's refer for a moment to the Enfield area.

MR. JOSEY: May I interrupt.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Overman, are there busses that pick up children in the County who go to the Enfield School who live in areas within, say, four or five miles of the Enfield School?

A Your question was——

Q Are there children going to the Enfield School who live within four or five miles of the Enfield School and ride busses to the Enfield School?

A Yes.

Q How far away from the Enfield School are the two Inborden Schools?

A A mile and a half, two miles.

Q How far away from each other are the two Inborden Schools?

A Well, there is just a road separating those, a drive really.

Q Are there children who go to Inborden who live in the same areas as the children who go to Enfield?

A Yes.

Q And are there children going to Inborden picked up by County busses, also?

A Yes.

Q And carried straight there?

A Yes.

Q So you have children into—on these busses going to Inborden that travel the same roads that go to Enfield?

A Some of them do, yes.

Q So you have busses going to the different areas pick up children and carry them into the Town of Enfield?

A Yes, different busses.

Q Different busses?

A Yes, that's right. Now all children who are assigned to Enfield School, regardless of their race, are transported to the Enfield School, and, of course, the same applies to the two schools at Inborden School.

Q But if the—if the county school system were ordered to adopt the zone lines that you have already drawn around the Inborden-Enfield Schools, and a pairing plan was adopted, wouldn't that considerably reduce the number of overlapping bus routes from what you have now?

A Well, it would have to be reorganized certainly. Of course, in the administration of transportation we have preferred to this point to have the drivers and the children in charge of the principal to which these—the school to which these children attend, and we have done this up to this point. Last year when we did hurriedly arrange transfer of pupils there were a few exceptions to that.

Q Is there a principal at the elementary school of Inborden?

A Yes.

Q Is he in charge of the busses that serve the Inborden School?

A No, he is in charge of the high school. I mean the high school principal is in charge of transportation for both schools there.

Q Yet there is another man who is a principal of the elementary school?

A Of the elementary school, that's right.

Q Would it be—would there be a simplification of the bus routes if in the Inborden-Enfield zone one of the schools taught, say, grades one through six and the other school taught grades seven through twelve, all the children in that zone were brought into the zone and then transfers made across and around the mile and a half that you have talked about?

A When you are speaking of simplification, are you asking about saving transportation distance?

Q Yes.

A As far as the school bus is concerned?

Q Yes.

A I don't know that it would be by pairing only, unless you are going to pick up all of the children on one road and then take them to the individual schools where they belonged.

Q That is what I asked.

A Then this is an administration problem—who has responsibility for those children when they are riding on those busses. Is it the principal in one school or the principal of the other school? And somebody must be in charge of them.

Q. Well, it seemed to me you have solved that to some extent when you have two principals at two Inborden Schools and yet one of them is in charge of the busses that serve both schools, and you already have that.

MR. JOSEY: I object to that. That is a statement. Are you asking him a question about that?

Q (Mr. Kennedy) You already have one principal in charge of busses going to two different schools?

A Right.

Q Each of which is headed by a separate principal?

A That's correct, but they are so close together—just across the street from one another—that the principal of the elementary school still has control of discipline problems of his particular children—the high school principal of high school children and also of the drivers. Because of the proximity of those, why, the two can work together on that as far as that is concerned, but if there is some distance between them, why, it does so pose a problem.

Q Do you run high school and elementary students on the same busses that go to the Inborden—the two Inborden Schools?

A Yes. Yes.

Q You mentioned the difficulty about transferring some library books and equipment. Would there be any library books or equipment that would have to be transferred between, say, Tillery Chapel and Dawson if that area of the County down there were zoned and children assigned there by geographic zones?

A No, I don't believe that would be involved.

Q Is the only transferring of equipment and books between the schools that are now teaching high school grades?

A Those children that were assigned to predominantly white schools from Negro schools last year, now, those library books serve those children, and I do not know whether there would be any transfer back to where those children are going to attend next year. This has not been worked out. It may be that they will remain where they are.

Q Mr. Overman, a little earlier you had shown me copies of letters dealing with the Scotland Neck City Administrative Unit, and have been kind enough to furnish copies for counsel. Are you referring to the letters now, sir?

A Yes.

Q I direct your attention to the letter dated May 15, 1969, to Frank P. Shields, Chairman, Board of Education, Scotland Neck City Schools, over your signature, W. Henry Overman, Superintendent of Halifax County Schools. There appears to be a tabulation in the middle of page one. Is that substantially correct, sir?

A There has been some change since that time because of—more forms have come in since that date.

Q Do you know what those changes are, sir?

A I give you total figures at that time I believe. 1029 is the total for Scotland Neck. And I believe the totals here, 713, 261—that is 974.

Q Do you know if there are any changes, or what the changes are for the figures under the column headed "White" and the column headed "Negro" on the May 15th letter?

A I know the letter all right, but you want to know what the changes are as far as division between white and Negro?

Q Yes, sir.

A And I am looking for another sheet that might give me information on that, that I can't locate for the moment.

Q Mr. Overman, let me interrupt so as not to—so we can proceed.

MR. KENNEDY: Counsel has copies of this?

MR. JOSEY: Yes.

MR. CREW: Yes.

MR. KENNEDY: I'd like to have the Reporter mark the May 15th letter as Government's Exhibit # 3, please, to this deposition, and the May 16th letter as Government's Exhibit #4.

(MARKED FOR IDENTIFICATION)

A I used it.

MR. KENNEDY: Let's go back on the record.

A Well, I used the figure 1029 as total for Scotland Neck as we knew it on July the ninth. Now this was May the 15th. Those totals amounted to 974 I believe.

Q (Mr. Kennedy) Right, sir.

A And I do not have a breakdown so far as race is concerned for the figures.

Q A little earlier today you stated, I believe, that before making up the map, the zone lines submitted April 1969, the desegregation plan, that you had some idea of the number of white and Negro children residing in each of those areas, and that you were going to secure

that information. Have you been able to find that information?

A May I ask Mr. Currin for that map, please, to give the race breakdown in the various areas. I gave you a sheet that would give you a better breakdown than the map.

Q Can you give us the breakdown both by area and sub-area by race, please?

MR. JOSEY: Let me go off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Overman, other than the teachers who formerly taught at the Scotland Neck School last year who have not re[illegible]ned to teach in the system this year, has the cr[illegible] the Scotland Neck district affected or have [illegible] any other teachers because of the creation of th[illegible]ool district?

A Not because of that. Let's see if I understand your question now. By the creation of the Scotland Neck School Unit we have not lost pupils directly.

Q Teachers, sir?

A I mean teachers. Because they have been allotted on a basis of the figures that I gave you last and that many pupils deducted from our actual attendance last year. Now we have lost teachers in our unit, but it was because of low enrollment and, of course, attendance, too. Enrollment primarily. In addition to those from Scotland Neck. But it was not because of the creation of the Scotland Neck Unit.

(DISCUSSION OFF RECORD)

MR. KENNEDY: Let's go back on the record. I'd like to have a document entitled "State Plan, Halifax County Schools, December 17, 1968," marked by the Reporter as Government's Exhibit #5 to this deposition.

(MARKED FOR IDENTIFICATION)

Q (Mr. Kennedy) Mr. Overman, what is the document entitled Plaintiff's Exhibit #5, "State Plan, Halifax County Schools, December 17, 1968"—what do those figures show generally, sir?

A It shows the proposed plan of school organization recommended in the State survey report.

Q Is this the interim plan or the final?

A The interim plan. And it shows the grades to be in each school, the expected enrollment for 1969-70. The first column under that shows the total. Those in parenthesis show the non-white pupils and then the other columns would be teachers that would be assigned normally, 1969-70.

MR. CREW: I think he said 'non-white' and I believe he meant white.

A Those in parenthesis, non-white—I'm sorry. Those in parenthesis are white.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Now are these figures in any way dependent upon free choice?

A No. That would be zoning and pairing.

Q What zones would give you these figures, sir?

A The zones as established in the State review—I mean the State——

Q Interim plan, sir? Interim plan we have already discussed?

A Interim plan.

Q We have already discussed that at some length I believe?

A Yes. Pages 15 and 16 of the report.

Q Yes, sir. Would one significant result of this plan be the reduction of the total number of high schools; you would be left with approximately four high schools?

A Four high schools.

Q And you have now, if I am not mistaken, nine high schools—eight or nine high schools?

A Left in the administrative unit?

Q Right now?

A Yes. We have—there would be eight.

Q Does this plan differ with the plan that was eventually submitted in February 1969 to the Justice Department?

A Would you repeat it?

Q Does this plan and this organization differ from the organization and the plan submitted to the Justice Department about February 1968?

A Yes, there are some differences.

Q This plan does not have free choice, the one here we're talking about, the State plan, but the one submitted to the Justice Department did have some elements of free choice, did it?

A Right.

Q Does this State plan—did it have any provision for transfers between districts based on race of children?

A No recommendation about that in the report of the State survey.

Q Did you get an opinion on whether this State plan would comply with the requirements of the federal law pertaining to desegregation of the schools?

A There was no references to that in the report.

Q Did your attorney or any attorney give you a legal opinion as to whether this State plan would comply with the current requirements of federal law for desegregation of schools?

A I think in the discussion it had been stated that this would, yes, as there is complete zoning and pairing in some instances.

Q Is it true that in each of the elementary schools and each of the high schools there would be some Negroes and some whites?

A Yes.

Q And there is no—are there any schools under the State plan that would have students just of one race?

A No. Each school would have some of at least two races.

Q Yes, sir.

A This is the State plan, now, we are referring to.

Q Right, yes, sir. What were the reasons that this plan was not—this State plan was not submitted to the Justice Department in February of 1969, sir?

MR. JOSEY: Object.

MR. KENNEDY: Is it something—okay. You can answer, Mr. Overman.

A Well, there is one reason that I recall, that moving toward the long-range plan would be a better arrange-

ment in some instances, and the facilities, without too much moving, was another thing. And it would provide for a balance of races better because, as you notice, that there were only six and four in one zone of white pupils that would attend certain schools.

Q Maybe I missed something along there. You say this State plan would provide a better balance of students?

A No, no.

Q No, it wouldn't?

A No. The plan that was presented to the Justice Department.

Q The one that included some free choice?

A I understand your question was why was this plan not adopted by the Board.

Q Really, not submitted to the Justice Department.

A I beg your pardon.

Q Why was this plan not submitted to the Justice Department?

A And I gave you the reasons of some changes, this was suggested.

Q Is administering free choice simply from an administration point of view more difficult than zoning children into geographic zones, other things being equal? . . . Is my question clear, Mr. Overman?

A I don't know that I know the meaning of that.

Q Does it require more manhours to administer a freedom of choice plan for pupil assignment than it would to administer a simple geographic plan of pupil assignment?

A I don't know that there would be a great deal of difference except for the moving that would take place, putting mobile units and temporary quarters at different places, but that would require considerable time.

Q Did the County system—correction. Was there some discussion in the past six months with reference to the possible loss of an instructional teacher due to the loss of children that would be taken out of the County School System by the Scotland Neck City School System?

A An instructional teacher?

Q Yes, or an instructional supervisor.

A Supervisor, yes.

Q Can you tell us about that, please?

A Well, the removal of the children to the Scotland Neck Unit, plus the loss of attendance last year, has caused our basic allotment of teachers from the State to be fewer than the requirement for three supervisors, State paid supervisors, that's correct.

Q Well, have you—will you this coming year have fewer State supervisors?

A State paid supervisors.

Q Will you have fewer or will the number remain the same?

A Will we actually have fewer?

Q Yes, sir.

A We hope to retain the third one.

Q Yes, sir. What is the lowest—I'm sorry.

A It would not be a State allotted one under this plan.

Q Will the Halifax County Unit pay for that supervisor?

A Yes.

Q What is the loss of attendance you're referring to, what is the quantity—how many children, about?

A More than three hundred in average daily attendance.

Q How many—do we have information—well, as to how many children would be lost to the Scotland Neck City System from the Halifax County System?

A How many pupils?

Q Yes, sir.

A Will go to Scotland Neck Unit, that come from the Halifax County Unit?

Q That went to Halifax County schools last year.

A Yes, this is the figure I gave you, the 1029.

Q 1029?

A Yes.

Q So it is better than three times as many students were lost to the Halifax County System by the creation of the Scotland Neck System than were lost due to drop in attendance; the loss by the Scotland Neck Unit was three times as great due to the attendance drop?

A Yes, approximately.

Q Do you have the estimated numbers of teachers by race who will be teaching in Halifax County Schools this fall, sir?

A Yes.

Q Can you give us those totals, please?

A The way you have asked that question I don't have the numbers at this time. We would have to do some subtracting.

Q Can you tell me in what form you do have the figures, sir?

A I have the form in all teachers that would be assigned to the schools in the Halifax County School Unit broken down between elementary and high school, and then the total. And then I can go back and pick up the individual schools and tell you the races of these teachers so far as we know at this time. They may be different before school opens because of resignation.

Q How many vacancies do you have right now to fill?

A That I can't tell you exactly.

Q Do you know if it is over thirty?

A At this time I'd say it is less than thirty.

Q Less than?

A Yes.

MR. KENNEDY: With the permission of counsel I'd like to go on to something else and get this by copies—if you could make some copies of that materials, Mr. Overman—and put it as an exhibit. How many pages is it, Mr. Overman?

THE WITNESS: Now this is just done in pencil, information I got up hurriedly this morning, and it is not in condition to be copied.

MR. KENNEDY: Well, would you be willing in the next week or so to tabulate that information, the number of teachers by race at each school, an estimate for this fall, and mail it—a copy to each of us?

THE WITNESS: Yes.

MR. KENNEDY: Would that be agreeable with you, Mr. Crew and Mr. Josey?

MR. CREW: Yes.

MR. JOSEY: Yes.

MR. KENNEDY: All right. We will go on to something else. Thank you, Mr. Overman.

THE WITNESS: You want copies to you, Mr. Kennedy, and to anyone else?

MR. KENNEDY: Mr. Josey and Miss Morgan.

Q (Mr. Kennedy) The statute setting up the Littleton-Lake Gaston School System, you told us, has not been voted on and approved by the voters?

A That's right.

Q Supposing that it will be approved, how many children will be lost from the Halifax County Unit to the Littleton-Lake Gaston System?

A Approximately 65 to 100, if they—all of the children live in that area attend that school unit.

Q What is the race of those children, sir?

A I'd say for the most part they would be Negroes.

Q Where do they now go to school, sir?

A McIver School in Halifax County.

Q Do you have any children that are now, in the last year, went to the Littleton School which is in Warren County, sir?

A Yes.

Q How many of those children?

A I estimated around 150 total from Halifax County that go into Littleton in Warren County.

Q Is that right in the Town of Littleton?

A Some in the town and some in the area outside.

Q It is a school—is Littleton School right in the Town of Littleton?

A It is, yes.

Q Is that a predominantly white school?

A Predominantly white.

Q These approximately 150 students from Halifax County who go there, are most of them white children?

A Most of them are white. I can't give you the exact number because I am certain there are some that are Negroes that are already going.

Q Where will those children that go to Littleton—the children that now are going to Littleton go this fall with the voters' approval?

A Continue going there so far as I know.

Q Would they all be residing within the boundary lines of the Littleton-Lake Gaston School Unit?

A No.

Q How many Halifax County residents reside in the boundary lines set up for Littleton-Lake Gaston School Unit?

A Now I do not have the approximate numbers.

Q An estimate.

A An estimate has been made of 134. That is outside of the Town of Littleton I believe. Now how many are in the Town of Littleton I do not know.

Q I'm trying to get at the number of children and their race that live in Halifax County, whether in that portion of the Littleton area that is in Halifax County or that portion of the Littleton area that is not in Halifax County?

A I cannot give you that total number.

Q Do you know who has the number?

A No, unless some members of the Board of Education of the Littleton-Lake Gaston School Unit does have it.

Q Do you know if anybody has done a survey to determine those figures?

A We have not in our unit made the survey.

Q If the Littleton-Lake Gaston School Unit is approved by the voters, will it cause the loss of any teachers to the Halifax County Unit?

A It could if these pupils attend there.

Q Am I correct in restating what you have told us, that there will be between 65 and, say, a hundred students who now go to McIver School will be lost to——

A That is the best estimate we can make.

Q Something around the 150 students who now go to the Littleton School will be lost also?

A Well, they are already attending, of course.

Q Yes, sir. They will continue to attend?

A Yes. So far as teacher allotment is concerned that 150 would not affect loss of any teachers in our unit because they are being—they have teachers allotted for those pupils because they attended before. The State teacher allotment is based on the number of children that have attended before. Now in the creation of a new

administrative unit, then there has to be an adjustment between the two units.

Q Do you have a memorandum concerning the Littleton-Lake Gaston School System?

A No.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Overman, you know Mr. Henry L. Harrison, don't you, that is sitting in the room here with us?

A Henry L. Harrison.

Q He is a former Board member of the Halifax County Unit?

A Yes, he is.

Q Did he ever go to you and ask you for the information about the number of students by race in the Scotland Neck area?

A I don't recall that Mr. Harrison did.

Q Anybody working on behalf of Mr. Harrison ask you for the number of children by race in the Scotland Neck area?

A I don't recall that that was asked. Now we did conduct a survey, as I have stated, of children attending school in Scotland Neck at the two locations, the main—well, those that were living in Scotland Neck. This was the first survey.

Q Who conducted that survey?

A Mr. Simpson.

Q On whose behalf?

A On behalf of the Halifax County Board of Education.

Q Approximately when?

A Actually, there was a period of time that he worked on it, and it was after the vote on the Scotland Neck Unit, I believe, and I would say it was during April or May.

Q Do you know any persons who came to anybody working for the Halifax County Board in the past year asking about information for the number of students or teachers of Halifax County in the Scotland Neck area?

A We have had so many questions of that sort I wouldn't say yes or no.

Q Who were some of those persons?

A I just don't recall.

MR. CREW: I object. He said he didn't know. Didn't know whether any had come.

MR. KENNEDY: He said there were some, sir.

MR. CREW: I think he said he didn't know, and I don't see how he can answer them by name.

MR. KENNEDY: Thank you very much, Mr. Overman.

(THE FOLLOWING PROCEEDINGS TOOK PLACE ON JULY 15, 1969.)

MR. KENNEDY: I'd like to ask Mr. Overman a couple more questions.

Q (Mr. Kennedy) Mr. Overman, can you briefly outline some of the effects on the Halifax County School System caused by the creation of the Scotland Neck City Administrative Unit, please?

A Of course, the number of teachers lost to our unit, based on the anticipated enrollment at the Scotland Neck Unit, within the Scotland Neck Unit—there was some reductions in the State allocations of funds and because of this unit, and because many items of State allocations—funds are based on the size of the unit, and another thing, we did not receive the allotment of three State-paid supervisors because of the same thing, that our unit dropped below the required number of teachers for three supervisors.

Q What do the supervisors do?

A The supervisors work with the teachers in the schools, upon request. They serve as resource persons, teachers. They confer with them on good teaching procedure; and I would like to call them helping teachers more than anything else. It is a service for the teachers, that would be helpful to them, and they hold meetings with teachers. Sometimes on grade levels, and oftentimes on grade levels. Subject levels in the high school area. And, generally speaking, they are for the help and assistance of the teachers within the classroom.

Q Is there any effect on the number of courses or the kinds of courses that the County is able to provide?

A No. No, the Scotland Neck Unit did not cause any change in the courses that would be provided in the remaining schools, is what you are speaking of?

Q Particular vocational type courses at the other schools, or something like this.

A Well, there is one thing about vocational allotment—we have not received it yet and so far as we know the number of teachers that we will receive will probably not be based on the number of children in our unit. I am not certain of that because we haven't received that allotment. Now what I was talking about was what is called the basic allotment of teachers.

Q What about the other teachers, like vocational type teachers or special education teachers, or reading specialists, and this kind?

A Well, special education teachers—we would probably lose one teacher because there was a formula in effect last year. Now this may be changed so far as that is concerned. It may be on the basis of needs rather than a formula for this year. For example, special education teachers for the mentally retarded and the educable—I mean the trainable retarded; the number of educable retarded was based on one teacher per thousand pupils, and, of course, if this formula is put into effect for this particular school year, next school year, it would reduce the allotment by one teacher, but it is my understanding that consideration is being given to actual needs in the allotment of these teachers for next year. Now, this is unofficial.

Q When will you know for sure, sir?

A I would not know that.

Q Sometime before——

A These regulations are often delayed at the State Department level until after the General Assembly has adjourned, and knowing what appropriations have been made in the various categories, we hope to know soon.

Q Would it have any effect on the number of speech therapists in the county schools?

A No. They are also based on the requests made and the amount of funds that they have to supply and, of course, they have to meet certain requirements so far as—well, speech therapists not necessarily, because we

have the need for more than we are allotted by the State.

Q Will it have any effect on the number of music or art teachers?

A No. They are not allotted by category. The art and music teachers are just a regular basic allotted teachers, and when they teach art and music, why, they are taught by those teachers—the basic allotment.

Q Will it have any effect on the administrative staff, the number of persons on the staff or the resources available to the administration of the school system?

A Well, not the number of persons.

Q Is there something else that would be effected?

A Well, of course, the local finances would naturally be less because of the creation of this unit, and we, of course, need the services as much as we did prior to the withdrawal of the Scotland Neck pupils at the unit for programs that have already been planned and the fact that we have the same area to serve so far as every section of the County is covered in our unit, and it does call for more local finances to carry out the same program that we had planned for the unit prior to the establishment of the Scotland Neck Unit.

Q Can you think of other effects on the Halifax County Unit, other effects, say, in the school program or administration that we haven't covered already?

A No.

Q Can you think of the effects that the creation of the Scotland Neck School System has on the desegregation of the Halifax County Unit?

A Well, assuming that these pupils may be allowed to go to Scotland Neck on a tuition basis, it is my belief from the figures that we have that more white would be accepted in that unit than Negro and it would naturally reduce the number of white pupils in our unit—the percentage.

Q Of course, you have also told us yesterday about some four hundred white students, approximately, who live inside the City of Scotland Neck who will not be in the Halifax County schools this fall?

A That's correct.

Q That also affects desegregation—isn't that true?

A To some extent, because there are a larger number of whites than Negroes living in Scotland Neck. That would not affect the total picture—well, it would from last year to the corresponding year, yes, by perhaps two percentage more.

Q Well, you told us—you gave us figures yesterday of approximately 2400 white students in the recent year in the Halifax County Schools, then we later talked about some seven hundred, approximately, white students who will be in—expected to be in the Scotland Neck School this comnig year?

A Well, the seven hundred would include those living in Scotland Neck district.

Q Right.

A And also those that might have expressed a choice to go to Scotland Neck School by paid tuition.

Q Right. That is between 25 and 30 percent of the white students of Halifax County, formerly of Halifax County School System?

A Yes.

Q How many courses are currently required by the State for graduation—high school courses?

A Sixteen by the State. In the Halifax County Unit we require eighteen units. We require in Halifax County eighteen units. You're talking about high school graduation?

Q Yes.

A We require in Halifax County eighteen units. Now the State has recommended that we require eighteen units, but the State Board of Education has never made that definite.

Q Are there any educational advantages to the pupils in the Halifax County system caused by the creation of the Scotland Neck System?

A Any advantages?

Q Educational.

A No, I can't say there has been. Now, you're talking about our unit and not the Scotland Neck Unit?

Q Right.

A Yes.

Q I believe we covered yesterday the possible educational advantages to the children who will be in the Scotland Neck Unit?

A Yes.

Q When did you first become aware that it would be—might be necessary—strike that. When did you become aware that the Scotland Neck School officials might be interested in leasing the junior high school campus?

A Well, this was brought before the Board of Education in the June meeting, and that was the first Monday in June.

Q Is that the first time you became aware of it?

A Not the first time I had become aware of it.

Q When was the first time?

A It had been talked, but nothing in an official way.

Q When was the first time you became aware of it?

A Oh, I don't know. I couldn't pinpoint that, Mr. Kennedy.

Q You told us it was expected to be approximately a thousand students in the Scotland Neck System this fall?

A That was on the 29th.

Q The 29th. And yet apparently those thousand children—well, could those thousand children be housed at the main Scotland Neck School campus, including the junior high school campus?

A No, not with the facilities that they have, nor would they have room in my opinion to put relocatable units on the campus. No.

Q Was this problem——

A When I say not room, there certainly wouldn't be any space for the children to play on the outside.

Q When did you first become aware that this might be a problem, either through your own study or through somebody else's conversation?

A That there would be need for this?

Q Yes, sir.

A After the survey was conducted, freedom of choice survey, then we knew that that would be a problem.

Q Was this when you first became aware of it? I'm asking when you first become aware that there might be?

A Well, this is the only way that we could determine the need, you see, is by the number of children that chose to go.

Q Were you quoted in the newspaper——

MR. CREW: I think I would object to any quote in the newspaper.

MR. KENNEDY: Okay.

MR. CREW: Regardless of what the newspaper would be.

Q (Mr. Kennedy) When did you become aware that the junior high school campus was not within the proposed boundary limits of the Scotland Neck School System?

A Well, I knew that from the time that the bill was drawn for the Legislature—presented to the Legislature.

Q Did you point this out to anybody?

A Did I point it out to anybody in conversation?

Q Yes, sir.

A Perhaps so.

Q Did you and Mr. Currin discuss it; did you point it out to Mr. Currin?

MR. JOSEY: I object to what they discussed.

MR. KENNEDY: I'm asking if he had a discussion with Mr. Currin.

MR. JOSEY: I know it, and I object.

A I am sure we have discussed it, but just when I cannot remember, and I have discussed it with many people, when somebody asked me the question, so far as that is concerned.

Q (Mr. Kennedy) Did you discuss it with Mr. Josey?

A I don't recall. There may have been some mention made about it.

Q Can you give us the names of the persons, other than Mr. Currin, that you did discuss it with?

MR. JOSEY: I object.

A No, because as many people as I talk to about school and the things that go on, especially if they are official—just most anybody would engage me in conversation about them and I would not try to recall the names of those persons. It would be impossible for me to do it.

Q (Mr. Kennedy) Prior to March 1, 1969, had you learned through conversations with persons involved in the Scotland Neck School System, who were working on behalf of the Scotland Neck School System, what number of students they expected to have in the Scotland Neck Schools?

A I got this information from newspaper publicity, that there would be approximately one thousand.

MR. JOSEY: I object.

Q (Mr. Kennedy) Did you learn from anybody connected with, or working on behalf of, the Scotland Neck Schools or the School System that would be created anything that would lead you to believe that—these persons—any number less than one thousand students at the Scotland Neck Schools?

A No. And I might say if the children were allowed to go outside of—from the outside of the Scotland Neck School Unit——.

MR. KENNEDY: I'm not sure I quite understand it.

MR. JOSEY: Let's go off the record for a minute.

(DISCUSSION OFF RECORD)

MR. KENNEDY: I think I have finished. Thank you, Mr. Overman.

EXAMINATION BY MR. JOSEY:

Q Now, Mr. Overman, this arrangement that has been made with the Scotland Neck School in leasing the junior high building there, this is not the first time that Halifax County Schools have made this type of thing somewhat in reverse, is that correct?

A That's correct.

Q As a matter of fact, some several years ago—two or three years ago—the Roanoke Rapids City School operated the Chaloner School, is that correct?

A Yes.

Q In fact, that school was physically within the boundary lines of Roanoke Rapids School, is that correct?

A That's correct.

Q Now, at that time was the—was race predominated in the Chaloner School?

A The Negroes—in fact, it was all Negro.

Q Then at sometime within the last two or three years, maybe four years, the—you went—the Halifax County School Board went through the same procedure somewhat in reverse, that is, that the Roanoke Rapids City School—the Halifax County Administrative Unit asked that the line be changed to put Chaloner—to more or less withdraw the line of Roanoke Rapids School and to put the Chaloner School inside the limits of the Halifax County Administrative Unit—isn't that correct?

A That's correct.

Q And that thereafter the Board of Education approved that, so that for the last several years the Chaloner School, although physically within the boundary lines of the Halifax County Administrative Unit, is—in fact owned the real property—is in fact owned by the Roanoke Rapids City Unit—isn't that correct?

A That's correct.

Q And, in fact, the Halifax County Unit leases for a dollar a year in somewhat generally the same type of lease that we have with the—that the City of Scotland Neck Unit has with Halifax County Board, the Halifax County Board has with the Roanoke Rapids Board on the Chaloner School, isn't that correct?

A That's correct. You recall that I made the statement that the lease agreement between Scotland Neck and Halifax County Board has not been executed so far as I know, because we have not received a copy of that in return, but the lease agreement is very similar, the one proposed, to the one that is in effect between Halifax County Unit and the Roanoke Rapids School Unit.

Q All right, now, and in—as a matter of fact, the lease that was drawn up between the Scotland Neck School Unit and Halifax County Unit was drawn up either in your office or by the Halifax County Board attorney, wasn't it?

A Yes.

Q Now, isn't it true that within a mile of Scotland Neck, or at the Bakers School, which is predominantly colored—Negro—you had empty classrooms last year—isn't that correct?

A Yes. We had the capacity for more pupils.

Q And they were permanent classrooms—isn't that correct?

A Yes.

Q So, that as far as the children's education, assuming that the thousand and twenty-nine students do attend Scotland Neck, there is no question in your mind as an educator as to which children would need the facility of the junior high, is it, as between—

A No, assuming that the children are going to attend this certain school.

Q That's right.

A Yes.

Q That's right.

Q And where would you—where would you consider possibly the break-off point between which unit would actually need this facility more, that is, a break-off point in the number of students that Scotland Neck were to have? Do you have some opinion as to that?

A The need would be greater in the Scotland Neck Unit for the junior high school location.

Q But my question is really related to—strike that. That is assuming that we, the Scotland Neck School Unit, has approximately a thousand to a thousand twenty-nine students, but my question now is related to the question as to how many students can the Scotland Neck City Administrative Unit adequately take care of, educate, with reasonably adequate facilities if they used only the old main Scotland Neck School facilities, the ones that the school administrative unit actually owns. Do you have some opinion in general? I know it is a question—

A Not to exceed seven hundred pupils.

Q Now, how many busses does the Scotland Neck School, this past year, how many busses came into it and served the nine hundred or so students that attended—or thousand students, or however many there were —that attended the Scotland Neck School facilities, that is, junior high and the Scotland Neck School facilities, approximately?

A Ten busses.

Q Ten busses. Now, obviously, the city school system has no authority and will not operate any school busses, is that correct?

A Yes.

Q Next year under the Scotland Neck City Administrative Unit?

A (Witness nods head in the affirmative)

Q And the students will, of course, be not only an equal number under the Scotland Neck System, but will in fact be a greater number, that is, projected greater, maybe a hundred greater, than attended Scotland Neck School last year, is that correct?

A I believe there were 969 that attended Scotland Neck School last year.

Q Just under eighty—maybe seventy or eighty.

A Yes.

Q Now, at the same time there will be maybe about a thousand and twenty-nine students less in the Halifax County Unit as a result of Scotland Neck's operation this coming year, is that correct?

A Yes.

Q And not only that, but I believe you testified that there were over three hundred who—that is, the average daily attendance was three hundred less for the year 1969-70 than there—I mean 1968-69, than there were for the previous year, therefore, you have a drop in your enrollment to that extent, is that correct?

A Yes. Speaking primarily of average daily attendance?

Q Yes.

A It reflects the enrollment, 250.

Q Yes. Now that three hundred you have talked about has no connection one way or another with Scotland Neck Schools, does it?

A No.

Q As a matter of fact—

A It included the whole unit, including Scotland Neck.

Q Isn't it true the Scotland Neck and Aurelian Springs area are the only two areas—strike that.

That the Scotland Neck School area and the William R. Davie School area are the only two areas in this County that have over the past number of years increased in student population—isn't that true?

A Well, there are some other school locations where the students have increased in number—Eastman being one, and the Inborden School in Enfield.

Q But that was because you closed other Negro schools, smaller schools, and consolidated Negro schools to form those—those schools, isn't that correct?

A Well, that was done many years ago, but not within recent years.

Q But the total school population in every area in this County Unit, except the William R. Davie and the Scotland Neck School areas, have generally—school population has gradually decreased year by year?

A That is correct, yes.

Q Now—

A You're talking about the total rather than the individual schools now?

Q That's right.

A Yes.

Q That's right. Is it not true, too, that the Negro—that the Negro—the percentage of Negro to white students in the last five or six or seven years—has that decreased or increased, do you know?

A The percentage?

Q Yes. The percentage, Negro to white.

A I would say that it's been about the same. Now our figures reflect some children that had attended elsewhere and are now attending school in Halifax County.

Q What is that, sir?

A Well, they were Indians, in particular. The Haliwa School in Warren County was closed, that is, the high school portion of it, and so those pupils living in Halifax County attended Halifax County Schools. The percentage has not been materially changed.

Q In other words, we have lost—

A Some fewer white, is true, because of the loss to private schools.

Q So, that as far as your opinion is, off-hand opinion is, that the decrease in total student population year by year has been approximately the same percentage-wise of whites?

A For the past few years.

Q It has kept a continuous—more or less the same balance over the years; there hasn't been much variation on the decrease in white or Negro?

A (Witness nods head in the affirmative)

Q Now, getting back to the Scotland Neck School, isn't it true that those ten busses, assuming that the Scotland Neck School operates next year, those ten school busses that are paid for—strike that.

That those ten busses that took students to Scotland Neck School this year would no longer be needed in any capacity by any school, isn't that correct?

A I would have to say that there is a need for some of these busses to eliminate a number of trips—more than one—that have been operating for several years.

Q Well, I don't really mean that you couldn't use them, but what I am saying is this: you eliminate those ten busses next year—the cost of operation—eliminate them completely, then you would still be able to have the same number of busses that Halifax County Schools had last year and operate in the same satisfactory manner as far as you have been operating in the past?

A The same as ever, heretofore, yes.

Q Whoever pays for those school busses, and whoever pays for the maintenance, for the purchase, for the bus drivers, for the driver education, for the supervisors, for everything that goes to—in the cost of operating those ten busses will be eliminated by the creation of the Scotland Neck School Administrative Unit next year?

A The operation of ten busses?

Q Right.

A Would be correct.

Q Now who—

A Unless they are utilized somewhere else.

Q Unless they are utilized. So that it would alleviate some of the real problems that we have always had in transportation?

A Some of the real problems, yes.

Q And you, of course, have no—have no opinion or estimate, do you, of what a savings or what it costs to operate ten busses for the Scotland Neck School last year, do you?

A I do not, no. We'd have to figure that out on a mileage basis, and I think the operating cost is around sixteen cents per mile, including replacement costs, and so on.

Q And you do not have the figures with you, or do you have the figures as to the number of miles that those ten busses travelled?

A We do have the figures but they are not available here. They are down at the transportation building, kept by the supervisor of transportation.

Q Now, I believe you answered Mr. Kennedy's question as to whether or not there would be any educational advantage that you could see in—for the students in the Halifax County Unit as a result of the creation of the Scotland Neck School Administrative Unit, and I believe you said you knew of none, is that correct?

A Correct.

Q Now, Mr. Overman, it is possible in your opinion from—as an expert educator to have a small school, that is, a thousand students more or less, with additional funds and it is possible, is it not, to raise the academic standard of that unit, with the necessary funds, over a unit that has some restriction on its funds—wouldn't it?

A Well, to some extent. I would have to say that the money raised by the special supplemental tax would provide more money per child than in the Halifax County Unit that does not have the supplementary tax.

Q And, of course, money is one of the things that—in fact, it is probably the single greatest thing that—that is, money per child spent, assuming it is spent reasonably wisely, probably the greatest single item as to whether or not you are going to have a high academic school—isn't that correct?

A That's correct.

Q And if—assuming—assuming, for the sake of this question, that Scotland Neck does in fact in a year or two, is able to maintain a school and operate a school that is above the standard that it does at the present time, or last year, that would be—that would be some advantage to the students that are permitted to go—who live in the Halifax County Unit area to go to that school,

some three or four hundred, it would be some advantage to them, wouldn't it?

A Well, it could be. I would have to put it that way, because I really don't know about curriculum arrangements and things of that sort.

Q In assuming that Scotland Neck could improve its educational standards, then the students that attended—were permitted to attend Scotland Neck School, whether they lived inside the Town of Scotland Neck or whether they lived outside, would gain some advantage; there would be some educational advantage to those students, wouldn't it?

A Yes, certainly, by virtue of the fact that there is more money per child available.

Q That is, assuming that Scotland Neck this—they could get a superintendent as competent as Halifax County and an assistant superintendent as competent as Halifax County has, then Scotland Neck, by spending twenty-five dollars per student more each year, should be able to raise its academic standard, shouldn't it?

A Well, it could. It could be. Now I am trying to be careful there because I don't know the kind of arrangement that is going to be made curriculum-wise.

Q At least it is possible?

A It is possible, yes, I'll say that.

Q Now, as I understood, you said that by the number of students—talking about just the students—that live in the Town limits of Scotland Neck, that by law have the definite right to attend the Scotland Neck School, just considering those students only being taken out of the school administrative unit of Halifax County, it would only change the percentage of Negro to white approximately two percentage points—isn't that correct?

A That is about right.

Q That is, from seventy-eight point something percentage Negro to eighty-two point?

A Yes.

Q Something in that neighborhood?

A Yes.

Q Do you know, under these choice forms that—under the survey that Halifax County School conducted

in April or May, whether or not there were any Negro students living outside the Town limits of Scotland Neck who requested assignment to Scotland Neck School in spite of the tuition plan?

A There were some. If you would allow me to get the figures here. I may have misplaced them.

Q Well, there were some, is that correct?

A Yes, and I don't recall the number. I believe this is it.

Q Now, as far as when Mr. Kennedy asked you about the effects on desegregation of the creation of the Scotland Neck School System, I will ask you if in fact it would be just as administratively easy for the Halifax County School Board to implement generally the plan—the interim plan of the State, with some modifications, of course, with the Scotland Neck School Unit being in existence as it would be if the Scotland Neck School were not in existence?

A With the exceptions that I have already noted.

Q Well, administratively—

A Supervisory services so far as the State, the allotment is concerned.

Q But I'm not asking about the cutting down of teachers and the effect in that regard, but administratively getting the students to the classes, bus routes, the administrative problems that would exist for the Halifax County School Board to implement a plan, the interim plan of the State, would be no more difficult—whether it is in 1969 or 1970—with the Scotland Neck School Administrative Unit being set up than it would be if Scotland Neck was in the county system, would it?

A The interim plan, you're speaking of, primarily?

Q Yes, sir.

A I think it could be implemented without difficulty. The long-range plan—if you're speaking about that—when we are thinking in terms of larger high schools there might be some effect on this.

Q Well, on the long-range plan, now, you still would have a unit of approximately nine to ten thousand students in the county, wouldn't you?

A Yes.

Q So that it still, by the creation of the Scotland Neck School Administrative Unit, in no way brings the number of students of the Halifax County Unit below any criteria that either is set by the Governor's Commission or by the new proposal that they made in the Legislature this past time, or by the—this book published by—the high schools in the South, a fact book that was mentioned by Mr. Kennedy, or any other criteria; it doesn't bring Halifax County Unit down in number of students below any of those criteria, does it?

A I am not familiar with all the criteria you are talking about, but certainly so far as number of pupils are concerned, of course, we do know that we have geographic conditions that hinder us somewhat in the organization.

Q Yes, sir.

A Of high schools, particularly.

Q In fact, that is one of the main administrative difficulties of this County, as big as it is?

A That would be with Scotland Neck or—

Q Or without?

A Or without Scotland Neck, that is true.

Q And, of course, at least a large proportion, a large percentage, a large number of the students that are brought into Brawley, that go to Brawley High School, are brought from areas as far as fifteen miles away from Scotland Neck, aren't they?

A The high school pupils, some of them are.

Q Yes, sir. Some of which are in fact closer or almost as close certainly, maybe closer, to Inborden School than they are to Brawley?

A About equal distance, some of them, yes.

Q So that the—even the long-range plan of the State, the creation of a consolidated high school somewhere between Dawson and Enfield, the students that even live in the vicinity of Scotland Neck, that is, the students outside the Town, would still travel only about ten to twelve miles to such a consolidated—twelve to fifteen miles—would travel that far—and you would have enough students to fill that high school without Scotland Neck for that high school to meet the minimum number of

criteria of the Governor's Commission's report—isn't that correct?

A Yes. We now have enrolled, or did have enrolled last year, more than six hundred in the high school in the Brawley School last year.

Q And how many in Inborden, which is Enfield?

A Inborden, some over four hundred. If you want the exact number—

Q Well, no, sir. And approximately how many in the Enfield School?

A Enfield, a hundred seventy-some.

Q That is close to twelve hundred students for just a high school available without Scotland Neck, isn't that correct?

A Yes.

Q And under the long-range plan of the State, the high school was—the one high school for the southeastern area was not to be located in Scotland Neck in any event, was to be located near the Dawson community, in that area, isn't that correct?

A That's correct.

Q Now, I believe you testified yesterday that there were approximately five million dollars worth of property, real estate, or taxable property, which was—which is presently located in the Scotland Neck School Administrative Unit boundaries, is that correct—approximately five million dollars?

A Somewhat less than five million dollars, we are talking about.

Q Yes, sir. Now, this five million dollars, property, is not taken out of the taxable property for the County for County schools, is it?

A No.

Q It would still be taxed just as it was before the creation of the school administrative unit—this tax—the County ad valorem tax would still be levied on that five million dollars worth of property and that County tax would then go into the general fund of the County, and that money would then be distributed on a per-student basis to the various units, isn't that correct?

A Yes, it would. Of course, when you say the general fund, it is the general school fund.

Q Yes, the general school fund.

A And then be distributed on the basis of the number of pupils attending each unit.

Q As a matter of fact, that is the way the Roanoke Rapids and Weldon Unit is done, and has been done for years, where they actually pay more taxes in those towns for school purposes than they receive back for their own students, isn't that correct?

A It would certainly be true of Roanoke Rapids. I don't know about the Weldon Unit.

Q Well, certainly it is true of Roanoke Rapids?

A Yes.

Q And chances are that that would be true of Scotland Neck, that five million concentrated amount in that small area; the amount that they would receive back, of course, it would depend on how many students are there, isn't that correct?

A Yes, sir.

MR. KENNEDY: I object to that. You should not be asking for speculation.

MR. JOSEY: If this is the only question that called for speculation, I would withdraw it, but we have been speculating for two days.

MR. KENNEDY: I think we can get at it another way.

MR. JOSEY: I don't mind.

Q (Mr. Josey) So that the Scotland Neck School Administrative Unit—strike that. The Halifax County Unit would still be getting the same amount of local funds, federal funds, State funds, basically per student for the Halifax County Unit as it did before the creation of the Scotland Neck Unit, isn't that correct?

A Oh, yes.

Q And, as a matter of fact, when you talk about the loss of teachers, you are talking about the loss or the total number of teachers, and you are not talking about any loss basically of the number of teachers per—or number of teacher-pupil ratio, are you?

A No.

Q And, as a matter of fact, on these speech therapists, people of that kind, you may end up with more teachers per student in the Halifax County Unit next—in 1969-70 because of the creation of the Scotland Neck Unit than you did last year, isn't that correct?

A Possibly a few, yes. Of course, not all children have speech defects, and there would be some that were being taught by speech teachers that will be in the Scotland Neck School Unit, too. I'm sure of that.

Q So your pupil to teacher ratio may be less, that is, you may be in a better position from a teaching standard standpoint next year because of the creation of the Scotland Neck School Administrative Unit than you were before, in some cases, isn't that right?

A I would not say that you would be in better position because of it. And I do not know what the formula will be for next year, but you are speaking of the way that they have been allotted in the past; this is all we can say—these special education teachers, that if we are still allotted the same number of State positions, then there would be fewer pupils for these teachers to work with, that's correct. I don't know how many will attend Scotland Neck School, but I am sure some of them that received speech therapy are located there.

Q And, of course, the allotment of teachers is really worked out in Raleigh by the—by Dr. Craig Phillips' office, isn't it?

A Yes. The State Board of Education make the regulations, and the State Department of Public Instruction oftentimes say whether they are needed, and where, if it is not on a formula basis.

Q Now, Mr. Overman, Scotland Neck may lose some —some teacher—teachers, particularly vocational teachers, that type of thing, as a result of their being a separate unit, isn't that correct, this coming year, 1969-70?

A Well, it could be. If you need an explanation there, I will be glad to explain it.

Q Please. I am not sure I understand it.

A Well, there were two trades and industries teachers in addition to home economics and vocational-agriculture, and our introduction to vocations teachers were

assigned to the Scotland Neck Schools, but two of these teachers worked with pupils from the Brawley School. This is the trades and industry teachers. And they worked with pupils from Brawley, and also the Scotland Neck School. Now, I do not know whether they will be retained in the County Unit or whether any of them will be allotted to the Scotland Neck Unit because these teachers have not yet been allotted.

Q Well, now, isn't it true, Mr. Overman, that vocational-agriculture in this area—that, that is, the number of students going into agriculture, has greatly diminished in the last twenty years?

A You mean the students themselves going into the field of agriculture?

Q Yes, sir.

A Yes, this is true. Now there are many students that go into agriculture related occupations now that didn't formerly.

Q But the need for the agricultural-vocational-agriculture in this—in the schools, and particularly in the urban schools or the town schools, county schools, is far less than it was just a few years ago, isn't that correct?

A Yes. I would say that probably some other type of vocational training might be better suited for urban areas.

Q And, in fact, the—probably the percentage of Negro students going into agriculture is less than even the white students in this County—wouldn't you say that that is true?

A I don't know that I could say. But it would seem reasonable to me, because of mechanization and the need for the people on the farms.

Q And Scotland Neck has had vocational-agriculture programs for—ever since the mid-thirties or early thirties and that is still under the County system, at least has been carried forward for the last thirty-five—thirty-four or five years, isn't that correct?

A Yes.

Q And isn't vocational agriculture one of the most expensive, both from a teacher standpoint and from equip-

ment standpoint, of any single course that our schools at the present day teach?

A It would not be more expensive than trades and industries courses because of the equipment that is required. Possibly more expensive than home economics to some extent.

Q But, certainly, more expensive than the academic courses?

A Yes, that's correct.

Q Now, haven't some of the schools, particularly the smaller high schools, gone from a trades and industries classes, that is, from strictly trades and industries classes to these—what they call career supervision, where they have a supervisor to try to get the students interested in a particular field and those students who are interested in that particular field, they get them a part-time job during their school year in that field in the community, and more or less career guidance, rather than actually teaching them a trade and industry in these high schools?

A I believe you are thinking of the type of vocational training that we refer to as I.C.T., where children would be on the job a portion of the time.

Q Yes, sir.

A And, of course, at school another portion. We do not have any of those teachers within Halifax County Unit at present.

Q But isn't it true that a number of schools are introducing that type of thing to give a broader choice of vocational endeavor to the students?

A Especially in the towns and cities.

Q Where they have those vocational—variated vocations?

A That's right, a variety of vocations.

Q And to some extent that not only give a broader scope or broader variety of vocations, but it is a lot less expensive, isn't that correct?

A That's correct. It does not require the equipment that is necessary for the other types of vocational training.

Q Now, Mr. Overman, isn't it true that this County is spread out over maybe fifty or sixty—possibly sixty miles from the northwest to the southeast, and approximately thirty to forty miles from north to south; it is a rather large county physically?

A Yes.

Q Wouldn't you say, too, that the interest—the vocational interest, even the academic interest, of this County—the people of that County—vary greatly from section to section?

A Yes. One section of the County—that is industrialized more than another, if this is the meaning of your question.

Q Yes, sir. And the type of farm operations, completely different in some areas than it is in others, isn't that correct?

A Right.

Q And that has nothing to do with—basically with race, does it?

A No.

Q It is just the particular location, whether it is Negro or white or Indian, it is the particular location and the nature of the soil and the nature of the area rather than race itself, isn't that correct?

A (Witness nods head in the affirmative) I say yes. I think the types of employment that they have had are responsible for the division in the race, is what you are asking, is it?

MR. JOSEY: Well—

MR. KENNEDY: I didn't understand you.

Q (Mr. Josey) Well, the interest, the type of vocations that they follow in this County is not based on whether a man is black or whether he is white or whether he is Indian, but where he lives and the type of industry, the type of work available, the type of soil, the type of—that has more to do with it fundamentally than the race, doesn't it?

A Yes. It has in the past.

Q Now I believe, Mr. Overman, you said that Mr. Simpson conducted this survey of the spot map to locate where each student lived within the County, and that was done—what month did you say, approximately?

A I believe it was begun in April and carried through part of May. Possibly a little earlier than April. It might have been started in March, the latter part of March. I'm not certain.

Q And that was never quite completed, was it?

A I believe it was completed as accurately as it could be gotten.

Q As I understood you yesterday, you said that the actual location of where each student lives was pinpointed as accurately as you could get it on this map, but that, in fact, any geographical areas to fit any plan on that was not quite completed?

A Oh, that's correct, yes.

Q Now, up until that time did you know, or did this office have any—have any reasonably concrete information, or did anybody that you know of in this County, have any reasonably concrete information as to where each student lived?

A No. We have had spots maps before but not recently, prior to this survey this year.

Q Now do you have the exact figure of the loss in average daily attendance from 1968-69 to 1969-70?

A I will have to get another sheet from the office. I do not have that with me.

Q But you do have that somewhere in the office and you can get it?

A Yes, I do.

Q And the number of teachers that were lost was due—due to the loss—strike that. The number of teachers—I believe you said there were a number of teachers that you would have, that the Halifax County Unit would have less than the teachers you had—were allocated last year?

A That's correct.

Q Of course, that would be true whether the Scotland Neck School Unit had been created or not, wouldn't it?

A That's correct.

Q But, again, those teachers are allotted on the basis of the number of students and, therefore, you anticipate that in 1969-70 you will have generally the same num-

ber of teachers per student as you would have otherwise or heretofore?

A Yes.

Q How many total busses do you have in your system, Mr. Overman, approximately?

A A hundred twenty-one. And there are nine that operate in the Weldon School Unit. I believe nine is correct.

Q What does that—the Weldon School Unit, of course, is a separate school unit, isn't it?

A It is.

Q How do—what responsibility, if any, does the Halifax County School Board of Education have in the operation of those busses in the Weldon City Unit?

A The law permits—it doesn't require any transportation for that matter at present, but it does permit the transportation of all children, regardless of whether they are in the city administrative unit or county administrative unit, for children living a mile and a half from the school which they attend if they are not in the city in which the school is located.

Q In other words, does the Halifax County Unit have any responsibility to the maintenance; what responsibility do they have concerning that, bus operation of those busses?

A Well, the State has set up the transportation system on the basis of one central location for all units within a county, and if city administrative units are entitled to transportation, why, this garage and maintenance, vehicle maintenance place is set up with the County unit, and, of course, they provide the funds for operating it for all transportation and all units within a given county.

Q And how many of those busses of the hundred—

A I think it is nine. I'm not certain that is the number. I believe it is nine.

Q All right, sir. Now, Weldon is approximately 24 miles from Scotland Neck, isn't that correct, by the road?

A Yes—25.

Q 24 or 25 miles. Now the Weldon School District—strike that. The Weldon School District originally was

set up back in the thirties, is that correct—the Weldon City Unit?

A Yes, as a city unit.

Q Then some—just a few years ago that was expanded to include Halifax and other parts, and other parts of the Halifax County Unit, wasn't it?

A Yes, in 1957.

Q '57?

A Yes.

Q And, in fact, the Halifax County Unit now comes from Halifax—strike that. The Weldon City Unit comes—the six or eight miles from Weldon to Halifax and includes Halifax, isn't that correct?

A It does.

Q It also goes another five or six miles towards Scotland Neck down almost to the Caledonia Prison Farm, just this side of Tillery, isn't that correct?

A That's correct.

Q And the busses for the Weldon City School Unit go as far as—within about twelve to fifteen miles of Scotland Neck and pick up students and take them to Weldon City Schools, isn't that correct?

A That's approximately the distance.

Q Now does—I believe Mr. Kennedy asked you about the agreement that Halifax County School Board made with Scotland Neck School Board concerning the crossing of the school lines, that is, the students—that some students that live in Halifax County Unit boundaries have requested to go to Scotland Neck School Unit, and you said that that agreement had been entered into, is that correct?

A Not a formal agreement, but an understanding when it came to the procedure of freedom of choice.

Q Yes, sir.

A So that it could be determined how many of those children—

Q Yes, sir.

A —wished to attend the Scotland Neck Unit.

Q At least at the present time, basically, that is the Halifax County Board policy and that is the Scotland Neck policy and they more or less propose to operate on that beginning in September, isn't that correct?

A Yes.

Q Beginning 1969. You also—the Halifax County Board has, and has had for many years, an agreement to permit certain pupils in the Littleton area to cross into Warren County to go to the Littleton School which is, in fact, just across the line in Warren County, isn't that correct?

A Yes.

Q And also—

A There are two classes, one around Littleton and the other near Hollister.

Q Which is the Haliwa, mostly heretofore the Indians, have been permitted to go into Warren County, who live in Halifax County, under that agreement; that's been a—rather longstanding, too, isn't that correct?

A Since the school was established—the Haliwa School was established—and I believe that's been in operation ten to twelve years.

Q All right, sir. Now—now do any students that live—any students that live in the Halifax County—in the Halifax County Unit go to the Weldon City Schools?

A There are probably some on a phasing out agreement. If they attended schools prior to their regulation, they would be allowed to continue.

Q What regulation do you refer to?

A Now, are you asking me if children are allowed to come out of Halifax County and go into Weldon?

Q Yes, sir.

A I don't recall exactly how long it's been in effect. but the Weldon Board of Education said that they would not allow Halifax County children, that is, Halifax County Administrative Unit children, to go into Weldon City School, or from any other unit, except those that had already started in attendance and they would be allowed to go by their choice and until they finished school or moved.

Q But as far as Halifax County Board of Education, they have never put any restrictions on people going to Weldon Schools; it's been the Weldon School itself that has not permitted them to go?

A That's correct.

Q Not the Halifax County Board of Education?

A That's right.

Q Are there any students that live in the Halifax County School Unit that go to Roanoke Rapids School Unit?

A There still may be a few because they have the same regulation there, only those attending prior to making that regulation by the Board of Education would be allowed to attend.

Q But there, again, there's been no restrictive action on the part of Halifax County School Board to prevent that crossing of lines, but the restrictive action has come from the other school board, that is, the Roanoke Rapids School Board, isn't that correct?

A That's correct. Now I might add that when these people live in Halifax County that have not gone before, and if they should request to go into some other unit, they are taken up individually and released, the assignment.

Q Now are there students living in the Roanoke Rapids City administrative boundary lines that come to school in Halifax County?

A There are some, yes.

Q What—any particular arrangement that you have with that school on those students, or what is the arrangement that you have?

A Well, there is a section in Roanoke Rapids School District that had been transported to one of the county schools for a number of years, even before I came to the county, and that section had been furnished the transportation without objection on the part of Roanoke Rapids and have been attending school at the—it's the William R. Davie School, in particular. I would estimate about sixty-five to seventy children have done this through a period of years.

Q Now, as far as you know Weldon doesn't charge any tuition, and neither does Roanoke Rapids for students coming in there, do they?

A Not to my knowledge.

Q But neither do they have an unrestricted policy of students coming in, that they do, in fact, have a restriction on who can come in?

A Yes.

Q Now, Mr. Overman, Mr. Kennedy asked you about the Governor's Study Commission Report, dated December 1968, and I believe you—he questioned you concerning one of the recommendations there involving the size of administrative units—isn't that correct—yesterday he questioned you about that, sir?

A Yes.

Q Now, Mr. Overman, isn't it true that one of the—one of the conclusions that they reached and one of the recommendations they made, very strongly so, that local—that no local funds be voted by people to increase local financial participation to improve the schools; isn't that one of the things that they suggested and recommended in that Governor's Commission Report?

A Yes, that is a recommendation.

Q And, of course, that is at least one thing that Scotland Neck School does in fact do and, in fact, follows the Governor's Commission Report, isn't that correct, in that particular regard?

A Yes, in voting of the supplemental tax.

Q Yes, sir. Do you know of any other—any school anywhere in the State that has a higher supplemental tax than fifty cents on a hundred?

A I do not; that is the limit.

Q In fact, that is the maximum that you can—

A The statutory limit.

Q Yes, sir. Now is Dr. Salter Cochran—is he in any way employed by the Board of Education of Halifax County?

A I am not certain about this year. He has been employed to examine pre-school children in the summer school program, and I'd have to ask someone else if he is doing it this year.

Q Well, do you have figures in your office to show how much he received monetarily last summer in examining these—in working for the Halifax County Unit?

A Those figures are available.

MR. JOSEY: Are available. Could you get those before we—could we go off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Josey) Now, Mr. Overman, when did you come here as Superintendent, sir?

A July first, 1947.

Q And you have been the school superintendent since that time?

A Yes.

Q I believe Mr. Kennedy got into on yesterday questioning involving whether or not any people from the Scotland Neck area had requested improvement of the schools, and so forth, in the last couple of years or the last few years. I will ask you that—isn't it a fact in 1965 that the people—certain leaders in Scotland Neck didn't in fact prepare and have Mr. Gregory introduce into the Legislature, the North Carolina Legislature, that session, a bill which proposed a Scotland Neck—a Scotland Neck separate administrative school unit?

A That was in 1965?

Q Yes, sir.

A Yes.

Q And, in fact, at that time, Mr. Overman, did not that bill have as the limits of the separate school unit all of the townships which would include the schools of Brawley, Bakers, Dawsons, Tillery Chapel, Hobgood, and Thomas Shields School?

A I am not certain that it included the Thomas Shields and Hobgood Schools, but a portion of those pupils that were probably going to Thomas Shields might have attended there at that time.

* * * *

Q You remember what the tax—tax rate that was proposed in that bill to be set for that area?

A Either twenty or thirty cents, and I don't recall which. I could be corrected on that, if you would allow me to—twenty-five cents.

Q Now, I show you here, Mr. Overman, what is marked for identification purposes Defendant Scotland Neck's Exhibit #1.

MR. KENNEDY: Correction—oh, I'm sorry. The Town of Scotland Neck?

MR. JOSEY: Yes, Defendant Scotland Neck—however you want to designate it; that is who I represent.

(DISCUSSION OFF RECORD)

MR. JOSEY: It is stipulated and agreed that Defendant Exhibit 1 is a copy of the map which accompanied the proposed school integration plan that was submitted to the Department of Justice by the Halifax County Board of Education in February of 1969.

Q (Mr. Josey) Now, Mr. Overman, I show you here Defendant's Exhibit #1 and ask you if the boundaries of the bill that was proposed in the North Carolina Legislature of—in 1965 were in fact the boundaries shown on Defendant's Exhibit 1, which included the Tillery Chapel School, the I. B. Dawson School—strike that. The Dawson School, the Scotland Neck School, the Brawley School, the Bakers School, but did not include the Thomas Shields School, is that correct?

A That's correct. Some pupils attending Thomas Shields may have been within that boundary line. I'm not certain.

Q And it is your recollection that the bill was originally proposed or drawn by the leaders in Scotland Neck to, in fact, include Thomas Shields, but those people in that area wanted to be taken out of it, so when the bill was finally introduced, the Thomas Shields area and Hobgood was, in fact, left out, isn't that correct?

A That's correct.

Q Now, as far as you know, and based on all of your experience with those people through that bill at that time, was there any purpose that had to do with race, creed, or color for—was there anything of that nature involved in the purpose for which that bill was introduced in the Legislature in 1965?

MR. KENNEDY: Objection. The purpose can be shown from the bill itself, the circumstances surrounding it.

MR. CREW: If you know to your knowledge.

Q. (Mr. Josey) Well, what was the purpose, if you know, as stated to you by those people that were—that were attempting to get that school bill—that separate

school unit made into law; what was their purpose if you know; what was their stated purpose?

A Well, the main purpose, as I understood it, was that they would be allowed to have a school unit of their own; they would have more control over this, and that they would have a supplementary tax to further finance the school program.

Q And isn't it true, also, that a number of the people who opposed that bill—who opposed the creation of that school district were the land—owners of land that would be taxed primarily outside the city limits of Scotland Neck?

A I do not know that to be a fact.

Q Well, now, Mr. Overman, they did have a public hearing in Halifax while that school bill was still pending in the Legislature, and that was called by Senator Julian Allsbrook—isn't that correct?

A That's correct.

Q Do you remember any of the individuals who spoke against that bill on that particular occasion, if you recall?

A I could not recall. I do know for a fact that there were some that had large land ownings—they were large landowners, but to say that they were confined to that I could not do that.

Q No, no, in fact, they probably weren't confined to that; there were two or three in Scotland Neck that lived in Scotland Neck that were opposed to it, also, weren't there?

A To my knowledge there were.

Q The Halifax County Board of Education did, in fact, take an official stand against it—isn't that correct, or did they?

A They took a stand against it, yes.

Q But as far as you know—strike that. Now, Mr. Henry L. Harrison was very instrumental in, and one of the leaders in, attempting to have that bill approved by the Legislature—isn't that correct?

A Well, I know that Mr. Harrison was present at meetings that were held in regard to it to explain to the people the advantages, and so on.

Q And, in fact, you know from a personal contact with Mr. Harrison that at least he was in favor of it?

A I would think that, yes.

Q And, in fact, he was on the County School Board at that time?

A He was.

Q And he had been for—well, he has been up until December of 1968, for about thirteen years—isn't that correct?

A Correct.

Q I don't know whether—I may have asked you this, Mr. Overman, but do you know how much the tax, ad valorem tax, per one hundred dollar evaluation was set in this original bill?

A Twenty-five cents per hundred dollar evaluation.

Q Now, after the failure of this proposed bill to pass the Legislature, I will ask you, Mr. Overman, within approximately one year thereafter if the leaders of Scotland Neck, including Mr. Harrison, did not propose that the County and the State establish an integrated consolidated high school in the Scotland Neck area which was, in fact, turned down by the State of North Carolina?

A Yes.

Q In fact, isn't it true that you and Mr. Harrison, and possibly the Board—the Halifax County Board Chairman and maybe one or two others, made a special trip to Raleigh to the State Board of Education, then Dr. Carroll—not to Dr. Carroll, but to his office, and actually talked to Dr. Pearce about asking, and in fact asked, that this be considered, that a consolidated integrated high school be considered to be placed there in the Scotland Neck area; in fact, exactly where the junior high is today?

A That is correct. We appeared before what was known as the State Review Panel. It is composed of members of the Division of School Planning, and some others that they call in as consultants. The State Review Panel then makes the recommendation to the State Board of Education.

Q Now what was—strike that. Wasn't it that they—they refused to go along with a consolidated high school in that particular location at that time, isn't that correct?

A That's correct.

Q And both—both the Halifax County School Board and the—certainly the leaders in the educational field in Scotland Neck were in favor of it and tried to get that established at that time—isn't that correct?

A That's correct.

Q And isn't—wasn't it, in fact, the only local group in this County—that lived in this County administrative unit that had been to the Board—to the Halifax County Board and said: we are willing and want a consolidated integrated high school—isn't that the first group that came to this Board and asked that that be done?

A Yes. As you stated it, this is correct.

Q Yes, sir. And, in fact, Mr. Harrison had served on this Board with you for approximately thirteen years up until December of 1968, isn't that correct?

A Yes, sir.

Q And didn't you consider Mr. Harrison, who lives in the Scotland Neck area, as one of the—one of—as a member of your Board who was in fact pretty—rather progressive and wanted to move along in education for the students of Halifax County; didn't you consider him to be at least in that category, a progressive forward thinking member of the Board?

A I did.

Q And he was the only member, was he not, that lived in the Scotland—in Scotland Neck, isn't that correct?

A Yes, the only one in Scotland Neck.

Q Now you had—for the past several years you have had one member who lived in Hobgood and one in the Thomas Shields area—isn't that correct?

A Yes.

Q And you had one member who lived in the Scotland Neck area, who is Mr. Harrison. You had one member who lived in the Enfield area, which was Mr. Whitehead, later replaced by Mr. Burke?

A Yes.

Q And you had one—you had actually two that lived in the general area of Aurelian Springs, that was, Mr. Wilcox and Mrs. Williams, isn't that correct?

A I am not certain whether they were on the Board in 1965, but there were two others that were in that area.

Q In that same area?

A Yes.

Q And one who lived in the William R. Davie area; that was—was Mrs. Shearin?

A Yes.

Q And there's been an effort by the leaders of Halifax County to try to have some representation of each physical area in the Halifax County School area, in the boundaries, to have some member of the Board from each physical area so they represent the children basically in that area—isn't that correct?

A That is generally true, yes.

Q So that Mr. Harrison, for the past thirteen years, has at least been the representative of—not only of all the children of Halifax County, but the one that has lived in the Scotland Neck area—isn't that correct?

A Yes.

Q Well, has it not been the policy that where problems existed or improvements were needed in a particular location that the School Board member that lived in that area would bring those problems—would bring that matter to the attention of the School Board, generally speaking?

A Generally speaking, that's true.

Q What relation would you say existed over the past several years with the local school committee and the Halifax County Board of Education member that lived in that area?

A Well, they were often kept advised. I mean the school committee and formerly the school committee, and now the advisory council, would often advise with the member that lived in that area about school matters and improvements, and so on, and in turn the Board member would lead a discussion on these matters in the Board meeting. Is this—

Q Yes. That is especially what I wanted in answer to my question. Also, isn't it true, Mr. Overman, that when these—when the H.E.W. guidelines were first put out and first published and first put in the hands of the

Halifax County Board of Education, that Mr. Harrison immediately, as a board member, went down into his area, the Scotland Neck area, and publiiczed those guidelines and made every effort to have the people in the Scotland Neck area comply with these guidelines?

A Yes.

Q Now, Mr. Overman, do you know generally how the people in the area, in Scotland Neck, have voted from time to time on these, either State-wide school bonds or local school bonds, as compared to the rest of the County; do you know how they compare—the vote in the County, in the Town of Scotland Neck, as with the rest of the County in regards to for or against these various bond issues?

A They have cast a favorable vote in favor of these bond issues, State-wide as well as the County bond issue.

Q Has that to some extent, at least, been during the last thirteen years?

A Oh, yes.

Q Been the result of Mr. Harrison's efforts, too?

A I would say that it is, yes.

Q Now how much bond money did Halifax County—was Halifax County allocated from the State school bond passage, the passage of the State school bond issue several years ago?

A The latest one, the 1963?

Q Yes, sir.

A Bond issue?

Q Yes, sir.

A Nine hundred—more than nine hundred fifty thousand dollars.

Q The State Bond issue—some over nine hundred thousand dollars?

A Yes.

Q Now how much of that to date has actually been expended, if you know, approximately?

A We have expended approximately a hundred and fifty thousand dollars for one school project.

Q So that there is—

A We have obligated some forty thousand dollars more for another school project that is under construction, a part of which has been spent.

Q How much of that—if you know, approximately—has been either committed to or spent on the Scotland Neck School property?

A Not any of this bond issue.

Q Approximately how much is there remaining at the present time that is either not committed or has not been spent, or this State bond money, approximately?

A Approximately $827,000.00. Now for reasons of balancing what I have said here, I would have to add that a part of this money that we now have was transferred from the Roanoke Rapids Unit to the County Unit when the John Armstrong Chaloner School became a part of the County Unit, if you want to check all of these figures.

Q So at the time the—Roanoke Rapids got you people to take over, got the Halifax County Board of Education to take over the physical area at least of the John Armstrong Chaloner School and took over those students, then a portion of the bond money that had been allocated to the Roanoke Rapids School on a per capita basis was put back into the Halifax County till as a result of those students, is that correct?

A That's correct.

Q Now the—now the fact that the Scotland Neck School—strike that. I believe you testified yesterday that the Board of Education of Halifax County has determined as a result of an opinion by the Attorney General of North Carolina that none of these State bond funds can be or should be allocated to the Scotland Neck School District, but that those should remain with the Halifax County School System—isn't that correct?

A That's correct.

Q And, so, therefore, as a result of Scotland Neck becoming a separate unit you have approximately $827,000.00 to be—theoretically to provide for a thousand less students because the Scotland Neck School District does exist, isn't that correct?

A Yes.

Q Now, Mr. Overman, isn't it true that only about four—strike that. As far as the school buildings and real estate that became the property of the Scotland Neck

Administrative Unit, as a result of this Act of the Legislature, 1969 Act of the Legislature, there are only four—there are only four classrooms, permanent classrooms, there that became the property of Scotland Neck School; there are only four that are less than twenty-five years old—isn't that true?

A Yes.

Q And those four—those relatively new four are in a building known as the auditorium which was built in approximately 1955 or '56 or '57, somewhere in that neighborhood—isn't that correct?

A Correct.

Q The other buildings and the other classrooms are at least twenty-five or thirty years old, and many of these are as old as—many of them are over sixty years old, isn't that correct?

A That's correct.

Q And, as a matter of fact in the—in the Government's Exhibit #2, Mr. Overman, which Mr. Kennedy questioned you about the other day, about the condition, the adequacy of certain classrooms, isn't it true in that survey that it stated that Scotland Neck classrooms, Scotland Neck buildings, school buildings, have more inadequate classrooms than any other—than any other area in the County?

MR. KENNEDY: Objection. I think that the report can speak for itself.

A According to the age and the condition of the classrooms I would say yes, than of any other school in the County.

Q (Mr. Josey) Well, Mr. Overman, on page 72, I believe, in the summary it says that—that ten classrooms meet minimum size standard, twenty-two do not. Isn't that what it states, and as far as you know, and based on your experience as superintendent, that is true, isn't it?

A Yes.

Q Do you know of any other area that has as many as twenty-two sub-standard classrooms?

A No, not as many as twenty-two. I did not, unless I referred to this. There is one other school which states

there were twenty-two that met—no, that is that met minimum size, so that is not below.

Q Now, Mr. Overman, size of a school administrative unit is not certainly the only criteria of academic excellence, is it?

A No, size in itself would not, no.

Q And, in fact, there is—there are a number of criteria and categories in which a school—in which academic excellence is determined by educators, aren't there?

A Yes, sir.

Q What are—what are some of those categories that educators—how they analyze the excellence or the standard of a school or school administrative unit?

A Well, I will start with size. They recommend that, certainly in high school, that there be a size—a number of pupils that will allow classes to meet the needs, abilities, interests of all the children. They usually refer to this type of high school as a comprehensive high school. In elementary schools they believe that they should have at least one teacher per grade. The quality of the instruction certainly is a criteria which has to do with the quality, overall ability, performance of the faculty members. It needs a good administrator. And a curriculum that would also meet the needs and the interests and abilities of the children.

Q Now, when an evaluation team of educators go into a particular school, say, a high school, to analyze whether or not that particular high school is a good school or a poor school or an excellent school, or meets the—at least the minimum educational standards, are there other statistics, categories of statistics, which they use to some extent to determine this standard, minimum standard or test standard, on which they are analyzing this particular school, such as the number of students who go on to college, the library books per student?

A Right.

Q Aren't there other categories on which a particular school is classified on educational standards?

A Yes.

Q Well, what are some of those, sir?

A Well, as you have mentioned, the number of library books, actually the condition of the school building itself,

and the equipment in the various departments in the school. Of course, there are some who rate a school by the number of children that go on to higher education. If you are speaking primarily of the surveys that have been made in our unit, I don't think that is included as a criteria for the operation of a good school, but there is information contained in it.

Q Well, that is one, certainly one—maybe one of the goals of a good school; that may be or may not be?

A Yes.

Q The entire goal. But it should be one of the criteria of the higher school, wouldn't you think?

A I agree.

Q And that is generally considered to be one of the criteria by educators?

A Yes.

Q Wouldn't it also be a proper test or a proper criteria, at least one category, to determine how many students that you had per teacher, that is, the fewer students you had per teacher, don't educators feel that the better they are going to be able to educate those students?

A In some phases of instruction. And they recommend in some classes a larger number can be taught. But you are speaking primarily of the pupil-teacher ratio?

Q Yes, sir.

A Overall school program. I would say yes.

Q Would you also feel that the percentage of classroom teachers with maximum experience, for pay purposes, would indicate—that is, those that had more experienced teachers would have a better school than those generally with teachers with less experience?

A That would be one conclusion you could reach I believe. And yet we have many teachers with little experience that are very good teachers. They are excellent teachers.

Q But hadn't it been your experience in the school system that, other things being generally equal, that where you have teachers that are more experienced they produce better results than teachers with little experience?

A Yes.

Q And that is also true with the staffs—the administrative staff, generally speaking, where you have people with some experience and generally speaking the more experience you have, the—a staff member has, the more likely he is to do a better job, more competent job—isn't that correct?

A That's correct.

Q I believe that the Governor's Commission's Report—did it not set a school administrative unit at a desirable minimum of five thousand enrollment—isn't that correct?

MR. KENNEDY: Objection. The report speaks for itself.

Q (Mr. Josey) Do you remember whether or not it did?

A This reference is a quotation from another study which says that in the future school administrative units should be so organized that an absolute minimum of 3500 to 4,000 school population, and a desirable minimum of nine thousand to ten thousand.

MR. KENNEDY: For clarification can I ask what page you are referring to?

A This is on page 64.

Q (Mr. Josey) That a desirable—from what? Nine to ten thousand?

A Yes.

Q Now, Mr. Overman, are you familiar with the Profile of Significant Factors in Education in North Carolina, A Ranking of School Administrative Units, dated July of 1968, that came out—was published by the Department of Public Instruction, Raleigh, North Carolina?

A Yes, I am familiar with that.

Q You are familiar with it generally?

A Yes.

Q And there they have set up in the various tables, have they not, various categories in an attempt to at least analyze and to rank various—all of the North Carolina school administrative units, whether they are city or county, isn't that correct?

A Yes.

Q Ranked them in these various categories?
A Yes.
Q And, of course, one of the categories they rank them is to size?
A Yes.
Q And Halifax County is, out of a hundred—a hundred sixty-some units in the State, is about twenty-fifth or twenty-sixth or seventh in size, isn't it?
A I believe that is correct.
Q Somewhere in that neighborhood?
A They change from year to year, and I believe it is around twenty-fifth.
Q At least there are approximately a hundred twenty-some units, approximately, that are smaller than Halifax County in this State?
A Yes. A total of 54—this publication—I don't know how many it listed.
Q Now do you know—also know that Tryon City Unit, Tryon, North Carolina City Administrative Unit is in fact the smallest unit in the State?
A I believe that is listed as the smallest. There is one other one that is very small, and I think that is to be consolidated, however—in Wayne County.
Q Tryon is not to be consolidated though; you know of nothing pending on that, do you?
A No.
Q Sir?
A No.
Q Mr. Overman, in most all of the categories of rankings of these schools in North Carolina, such as percent of high school graduates entering college, number of library books per pupil, teacher and pupil ratio—in all of those categories there are many more small schools that are far under five thousand students than there are large schools in this State, if you know?
MR. CREW: Objection. The report——
MR. JOSEY: If you know.
A Yes.
Q (Mr. Josey) In fact, Tryon, the smallest school in the State is the fourth from the top in the whole State of a hundred sixty—fifty-five or sixty units in the

percentage of high school graduates entering college—isn't that correct?

A I would have to see the figures there, Mr. Josey.

Q Yes, sir.

A That is correct.

Q And out of the top seven schools in that particular caegory there is only one school, one administrative unit, that has as many as five thousand students in the unit, and that is Greenville and that has about fifty-eight or nine hundred. Would you check that, please, sir?

A Would you repeat the question?

Q In the category of the percentage of high school graduates entering college, out of the top six or seven school administrative units in that category, there is only one—there is only one school administrative unit that has as many as five thousand students, and that is Greenville with approximately fifty-nine hundred or six thousand students, and all the rest of those top six or eight are small school administrative units under five thousand?

MR. KENNEDY: Objection. The report speaks for itself.

A That is correct.

(DISCUSSION OFF RECORD)

MR. JOSEY: I'd like for the record to show that this "Profile of Significant Factors in Education in North Carolina, A Ranking of School Administrative Units, July 1968," prepared by Statistical Services, Department of Public Instruction, Raleigh, North Carolina, be shown as Defendant Scotland Neck Exhibit 2.

(MARKED FOR IDENTIFICATION)

Q (Mr. Josey) Mr. Overman, do you now have the figures about which I asked a few minutes ago concerning the amount that Dr. Salter Cochran has received from the Halifax County Board of Education in the past two years?

A Yes.

Q What are those figures, sir?

A In 1968, summer program, Dr. Cochran was paid the sum of $1600.00 for examining 708 children, and this figures $2.62 per child for each examination.

Q Now are those funds—are they paid from Halifax County local funds?

A Paid from federal funds. ESEA Title I Project.

Q And that's all that he—is that all the total money he received for the examination from any source, is that correct as far as you know?

A During 1968.

Q And that was just during the summer?

A The summer of 1968.

Q All right. What—do you know what the purpose and the extent of this examination that he gives—do you know—is that—strike that. Could you answer that question? Do you know the purpose and extent to which this examination is given?

A The purpose is to see that the children are physically able to attend school the next year. These are pre-school children. Now exactly what he checks I don't know that I could include everything, but it's a general physical examination.

Q In other words, he checks them to see that they have no——

A Defects.

Q Obvious defects, and if he does find any, why, then he turns those over to—reports those to somebody else?

A Yes, sir.

Q All right, sir. Do you know how many years he has been performing this service?

A For two years, during the summer of 1968 and 1969.

Q And what—where are these 708 children that he examines, where do they come from, what area of the County—do you know?

A The entire school unit.

Q Who are the seven hundred?

A These are pre-school children. Pre-school children.

Q Is he the only doctor that examines any of these children?

A Yes.

Q I mean on that program?

A Yes.

Q So he examines every pre-schooler that goes into the Halifax County School System, theoretically at least?

A Those who enroll in the readiness program. Now there are some that do not attend this summer program and he does not examine them.

Q Of course, that included in 1968 those children in Scotland Neck?

A Yes.

Q And if Scotland Neck does operate under a separate school system that will cut down on the number of students that he will be—that he will have to examine in 1969, isn't that correct?

A Yes.

Q And he—Dr. Cochran lives in Weldon?

A He does.

Q Isn't that correct?

A Yes.

Q In the area that is covered by the Weldon City Administrative Unit?

A Yes.

Q Now what about 1969, sir?

A 1969, the amount is $1917.00 for 575 pupils. 575 pupils. Of this amount $1725.00 for examination, and then $192.00 for medical services, a follow-up.

Q So the price per child went up approximately thirty or forty percent from 1968 to 1969, is that correct?

A I did not figure the cost per child on this.

Q These—to whom are these children referred?

A May I answer that question when you asked about thirty percent. This figure is $$1725.00 for the examination portion. It would be $3.00 per child. It was $2.92 last year—twenty-six cents. $2.26 last year. $3.00 per child this year.

Q Now did that include—did the $1725.00, examinations, did that include for the 1969 examinations the Scotland Neck—the pupils that will be entering the Scotland Neck School, or at least be enrolled there?

A So far as I know. I don't know the number really in Scotland Neck.

Q In other words, there were some summer programs at Scotland Neck and Halifax County more or less elaborated on for 1969?

A Yes, the summer programs.

Q During the transition as it moved from the County System to the City System?

A Yes.

Q Do you know where these children—the children that are found defective in some way, where they are referred to or does Dr. Cochran handle that himself?

A I would suppose that they are referred to the private physicians, except in some—this $192.00, Dr. Cochran has performed the service. Now exactly what that was I am unable to say, but he has been paid $192.00 for that service.

Q Now I think there is about one other question of these category questions. Mr. Overman, in obtaining teachers for Halifax County have you experienced any difficulty in the competition with units that can pay supplements to teachers until the last few years?

A Yes. Yes.

Q And, in fact, that is a problem in North Carolina today, and has been for several years, isn't that correct?

A Yes. This is generally speaking, yes.

Q So that a unit that does have some funds that can supplement teachers can expect to get—have a little easier time getting more experienced and possibly a higher category of certificate teachers than those that have no supplement for the pay—isn't that correct?

A Well, generally speaking, that is true. There are other factors I think in obtaining good qualified teachers.

Q Yes. I take it that the living conditions, the town or city, or the place that a teacher has to live is to some extent——

A Convenience.

Q ——very important to them, to a teacher.

A (No answer).

Q And other aspects which make a teaching job attractive or unattractive, as the case may be, is that correct?

A Yes.

Q But you would say in general that—you would say in general then that the Scotland Neck Unit with some supplementary funds should be able to attract somewhat a better teacher or more experienced teacher than a unit that does not have those funds—isn't that correct?

A If the supplement were large enough to make the attraction, I would say it that way.

Q Now, of course, if Scotland Neck Unit did in fact provide a supplement, that to some extent would be another unit that would—that you would have to compete with possibly, isn't that correct?

A To some extent.

Q But you have quite a few pretty close by, in any event, without Scotland Neck, without considering Scotland Neck; that is, the Roanoke Rapids District, the Tarboro, the Rocky Mount, the Weldon, the Virginia Beach, the Norfolk area—you have many other areas pretty close by that you have to some extent compete with in obtaining teachers—isn't that correct?

A Yes.

Q So that what little competition you would gain from Scotland Neck would be somewhat a drop in the bucket, wouldn't it?

A It would be very small compared to other nearby units that pay supplements.

(LUNCHEON RECESS)

Q (Mr. Josey) Mr. Overman, when was the last time that there was a bond, county-wide bond, school bond issue passed?

A 1967 . . . Not 1967. 1957. Excuse me. 1957.

Q Now at that time was it not the plan of the Halifax County School Board to pass this bond issue of approximately three million dollars, and it was a plan in the hope of the Halifax County School Board that the County Commissioners would in future years from 1957 maintain their sixty-three cent school capital outlay tax rate—wasn't that the plan and the hope at that time?

A Yes.

Q Has that sixty-three cent rate been substantially reduced by the County Commissioners since 1957?

A Well, the first levy was less than the sixty-three cents as I recall it, by five cents. And it has been gradually reduced to where it was twenty-seven and a half cents last fiscal year, and has been restored for next fiscal year to twenty-nine and a quarter.

Q So that the total funds that was contemplated by the Halifax County School Board for capital outlay for building of new buildings and improvement for the Halifax County Schools themselves has not—the impact which this bond money would have had, and the board hoped that it would have in the long run, has not in fact been sufficient because of the decrease of the sixty-three cent rate down to twenty-seven or twenty-nine cents of the capital outlay, the annual ad valorem taxes—isn't that correct?

A Yes.

Q And isn't that one of the main reasons that—that the Scotland Neck area has not, among other areas in the County, has not had sufficient capital funds to keep their facilities up to date and current and adequate?

A Yes, that is correct. Perhaps I should make a statement about that sixty-three cents. I believe that was a combination of capital outlay and debt service because of the bond issue. Now the debt service has been reduced because they make smaller payments each year, and also the capital outlay has been reduced.

Q At least the Board of Education plan was, and they really campaigned on the theory and told the people that, if they passed this three million dollar bond issue and the capital outlay tax rate, school capital outlay tax rate by the County Commissioners, remained the same, that the Halifax County Board of Education would have sufficient funds for many years to come to provide adequately for the students in this County—isn't that basically the approach in the campaign that you people put on?

A That is correct.

Q And the fact that this sixty-three cent capital outlay—school capital outlay rate and debt service rate has been reduced gradually since 1957—isn't that one of the, if not the, primary—because of the somewhat discontent and the movement on the part of the liaison in the Scotland Neck area since that time?

MR. KENNEDY: Objection. It calls for complete speculation.

MR. JOSEY (To Witness): Go ahead.

A I certainly heard this expressed at times.

Q (Mr. Josey) Now, Mr. Overman, isn't it also true that Scotland Neck—strike that. Isn't it also true that the district school committee or the advisory council, whichever it was at the time, for the—Scotland Neck, was the first in the County to have a Negro member approved by the Board of Education?

A I believe this is correct. There have been Negroes put on other advisory councils since that time.

MR. JOSEY: That's all.

EXAMINATION BY MR. CREW:

Q Mr. Overman, do you know the approximate number of Negro teachers in the Halifax Unit for the past school year?

A I say it is exact—it is not exact. We have approximately 330 Negro teachers.

Q And approximately how many white teachers do we have?

A A hundred fifty to two hundred.

Q Mr. Overman, have you as Superintendent or has the Halifax County School Board encouraged or fostered in any way the creation of the Scotland Neck Unit?

A No.

Q Do you know the ratio or the approximate ratio of Negro and white students in the Weldon Administrative Unit?

A Only approximately. 62 percent Negro.

Q That is, for the Weldon Unit then you say approximately 62 percent Negro?

A Yes.

Q Now in the Roanoke Rapids Unit do you know approximately the percentage?

A Approximately 80 percent. 20 percent Negro.

Q And you gave the ratio yesterday, but for comparison purposes what is the ratio in the County units as it is now constituted of white and Negro?

A As of last year?
Q Yes, sir.
A 78.6 percent Negro or non-white. 21.4 white.
Q Mr. Overman, what effect, if any, does public support for your public schools have in the operation of your public schools?
A To what extent?
Q Yes, sir. Do you consider—is public support of the public schools, is that necessary in order to achieve excellence in education?
A Oh, yes.
Q Now in the plan which was submitted to the Justice Department, I believe in February of 1969, were there hearings held in the County in an effort to explain this to the people of the County?
A Yes, there were.
Q Was there opposition to the plan as submitted?
A Yes.
Q Did the opposition come from all races in the County?
A It did.
Q I believe in this County we have the white, the Negro, and the Indian?
A Yes.
Q I ask you if you did not have strong opposition to the plan from the Negro race?
A Yes.
Q Now at the time that this plan was submitted to the Justice Department I ask you if the bill setting up the Scotland Neck District had not already been introduced in the General Assembly?
A It had been—been introduced?
Q Yes.
A Yes, sir.
Q And it was sometime before, subsequent thereto, that it was enacted?
A Right.
Q Would the inclusion or exclusion of the Scotland Neck Unit have any effect on the way that you would operate the schools in the County, I mean by that would—

if the Scotland Neck Unit were in the system would you proceed one way and if they were out would you proceed another?

A Well, of course, under the present plan which is freedom of choice there would not be any change.

Q Yes, sir.

A Now, is this your question? I don't know whether you meant——

Q Let me put it in another way. It is in evidence here that after the plan was submitted to the Justice Department, no further overt action was taken by the County Board with respect to further desegregation plans?

A That's correct.

Q It is also in evidence that it was for some period of several months, as I recall, that one was not sure of what was going to happen with respect to the creation of the Scotland Neck Unit?

A That is correct.

Q In your opinion did that have an effect on the action or enaction of the Halifax County Board?

A No. I understand your question. It was whether there was any effect on the Halifax County Board of Education as to what——

Q Was the fact that the Scotland Neck issue had not been determined, and apparently still has not been determined, did that have any effect on the Halifax County Board in submitting or not submitting another desegregation plan?

A No.

Q Now the question was asked this morning, Mr. Overman, whether or not under the—I ask you the question now. Under the freedom of choice questionnaires which were submitted to the students in the Halifax Unit for the coming school year, did any white children request permission to attend a predominantly Negro school?

A Yes, they have. And I must explain that I was in error, not I believe as to my answer when it was asked before, but that I did not have the information. But as of this time I have the list, and there were four white

children that requested the Thomas Shields School, which is predominantly Negro.

Q Do you know how many requested it?

A Four.

Q Mr. Overman, is it advantageous from the administrative standpoint, when changes are made in your school attendance plan or in the desegregation plans, for these plans to be made during the—to be submitted during the school year?

A Yes, it would be.

Q What are the advantages there?

A Well, for the length of time to make preparations for reorganization of schools. And I think I could add, too, the availability of people with whom we would work in implementing this change, which would include all the principals and the faculty members as well as parents who would normally attend parent teachers association meetings during the school term.

Q Approximately how long a period of time in weeks, days or months do you consider it necessary in order to effect major changes in the attendance areas, geographical pairing of units or whatever it might be?

A We would need at least six months.

Q I gather then that it would not be feasible administratively or otherwise to make substantial changes in the plans for the 1969-70 school year between now and the opening of school, which I believe you said would be the latter part of August?

MR. KENNEDY: Objection to leading the witness.

A That's right.

Q (Mr. Crew) I believe you did say that our schools would open the latter part of August?

A Yes. The 28th is the first full schoolday.

Q Mr. Overman, I direct your attention to the Government's Exhibit, the School Survey, Government's Exhibit 2, page 7—page 7. Listed under major problems there are four items listed as major problems. I direct your attention to the fourth, which reads: The shifting of pupil population brought about by the 1964 Civil Rights Act. I ask you if you are in agreement with this report, that the shifting—that this is a major problem?

A Yes.

Q You might have given this figure yesterday, but I ask you, under the freedom of choice returns as you gave them yesterday, statistically the number of Negro students that have requested admission to predominantly white schools in the County for the year 1969-70?

A I do not have the sheet from which I read yesterday. Here it is. The number of Negro pupils?

Q Yes, sir, requesting admission to predominantly white schools?

A Four is the number—no, no. I misunderstood you.

Q It is the number of Negro students who have requested through the freedom of choice admissions to predominantly white schools?

A I believe I had to add that yesterday. I will have to do the same thing to give you the exact answer. I will have to add this. Would you want to do it by the school, or just the total?

Q Just the total, approximately.

A 301 Negro. And you didn't ask for the Indian, but there are 76 Indian.

Q Mr. Overman, referring again to the plan submitted by the County Board to the Justice Department, I ask you if, since the rejection of that plan by the Justice Department, if a study was being made and will continue to be made with respect to consolidation of schools in the Halifax Unit?

A Since the rejection of the plan?

Q I ask if one was not going on and actually continued since the rejection of the plan?

A Yes.

Q And just recently, some ten days ago, I believe that final report with respect to consolidation was made?

A Yes.

Q Now what action, if any, did the Halifax County Board of Education take with respect to that suggested plan of consolidation?

A To consolidate four high schools into one in the northwestern section of the County, to be so located that it might, if necessary, include part of what we consider

the southwestern section of the County. And, also, to operate the Enfield School as a high school only, to operate Eastman School as a high school only, and to operate Brawley School as a high school only. Now there are some variations in that, some would include seventh and eighth grades—these last three that I mentioned.

Q Did the Board employ an architect to begin plans with respect to this new school?

A Yes.

Q I believe that was Mr. Davis, of Roanoke Rapids?

A Yes.

Q And I believe—I ask was a committee appointed to select sites and make future studies with respect to this consolidation?

A Yes.

Q I believe you testified yesterday that a substantial portion of the money necessary to build such a school is already available from the State bond issue and from other capital expenditures or proposed capital expenditures funded but not spent?

A Yes.

Q Now if that consolidation plan should be affected, what effect, if any, would it have on the increased integration of the schools in the County?

A Well, it would mean that the four high schools to be consolidated would include two all Negro high schools at present and two predominantly white schools into one unit. At two other units it would be complete integration of the high school.

Q This would be—the consolidation would in your opinion result in complete and total integration in those areas?

A There are three other areas. I believe I said two. I meant three other areas.

Q Do you know the percentage of students by race that would be in that consolidated school, the approximate percentage?

A For the one high school as proposed for consolidating the four there would probably be around 50 percent Negro and 50 percent white, approximately.

Q From your many years experience as Superintendent and from your attendance at these various meetings that you have had with respect to the selling of the plan submitted to the Justice Department and rejected by the Justice Department, is it your opinion that the communities involved would accept this consolidation so that the quality of education and excellence in education might be continued?

A Yes. May I correct an answer. About fifty percent. I was thinking primarily of Negro. If you are going to say non-white, there would be more non-white than white in this consolidation because it would include the Indians.

Q Do you know approximately what percentage would be Indians? I ask in the interest of time would it not be roughly five percent?

A Approximately.

Q So the net result then would be roughly 55 non-white and 45 percent white?

A Yes.

Q Mr. Overman, I ask your opinion from years of experience as a Superintendent and your familiarity with the local problem that, if total and complete integration of all of our schools in the County Unit should be ordered by September of this year, would it result in more or less integration than we have had in the past?

A It is my opinion that it would result in less integration. It is my belief that quite a number would wish to enter private schools, more than have now entered.

MR. KENNEDY: I object and move that to be stricken. This is completely irrelevant. It is very clear what the law is on that point.

MR. CREW: We disagree with you. You have a right to object.

Q (Mr. Crew) Mr. Overman, at the time that this plan was submitted to the Justice Department in February of 1969 was there a strong movement in the County for the building of a private school?

MR. KENNEDY: Objection. Same objection.

A Your question is was there a movement at that time?

Q (Mr. Crew) At that time, yes, sir.

A Well, I would say soon after the plan was adopted by the Board of Education there was a movement created.

Q After the Board of Education then reverted to the freedom of choice plan for the current school year, did the plans for building of the private school diminish?

A I'm not certain about that.

Q Is it your understanding that up to this date they have only built a well or dug a well at the proposed site of the private school?

MR. KENNEDY: Same objection.

A Yes, to my knowledge. I don't know whether more has been done.

Q (Mr. Crew) Mr. Overman, when was the last county-wide bond issue for the school, school bond issue in this County?

A 1957.

Q And do you know approximately how much money went to the County Unit at that time?

A One million nine hundred thousand, approximately.

Q Approximately what percentage of that, if you know, was expended for the building of Negro schools in the County?

A Approximately 75 percent.

Q How many counties are there in North Carolina, Mr. Overman?

A One hundred.

Q Do you—are the school situations different in each of those one hundred counties in your opinion?

A Yes. I would certainly think there would be conditions that would vary in each of the counties.

Q Mr. Overman, if the consolidation—if and when the consolidation, proposed consolidation in the western part of the County is complete, do you know the approximate number of courses that would be offered at that school at that time?

A An estimate is 65. would be offered in that size high school.

Q And what is the approximate average for the County now, if you know?

A Well, it's 38 to 40. I don't know that that is the average. It varies from year to year.

Q It is considerably less than the 65?

A Yes. Yes, approximately half is the average.

Q And I believe you testified yesterday, or either through your own testimony or from reports, that the number of courses offered in a school system was the more courses offered the better quality of education that you would anticipate?

A Yes, to meet the needs and the interests and the abilities of all the children.

Q Now reference was made yesterday to the resolution passed by the County Board amending the boundaries of the Scotland Neck Unit so as to include the building that I believe was alleged to as the junior high school. Now I ask if the action of the Board was not solely to comply with the procedures set out in the statutes for changing the boundaries of the administrative units, that is, the adoption of the resolution?

A Yes.

Q That is required if a boundary is to be changed?

A Yes. It requires that both boards agree to this, and the State Board of Education approve.

Q And I believe that the State law further provides that a unit cannot operate a building if a building physically is located outside of its own administrative units, is that correct?

A Cannot operate a school if it is located outside of its administrative unit?

Q Yes, sir.

A It is located outside of its administrative unit.

MR. CREW: I believe that is all, Mr. Kennedy.

EXAMINATION BY MR. KENNEDY:

Q Mr. Overman, going back to what you answered for Mr. Josey: there was a long discussion concerning a topic of ten busses, approximately, that would be—that presently, this past year, served the Scotland Neck Schools. From what source is the money—does the money come from to pay for the operation of busses?

A State funds.

Q And if there are any savings effected through economies and operation of busses of a local unit, does that money go back to the County or to the State?

A It would not be expended by the State. It wouldn't go back. It would just not be expended.

Q Well, does it go back—can the County convert that to buildings or teachers?

A No, unless—may I—

Q You can explain.

A —make an explanation before answering that question?

Q Yes.

A In the original purchase of school busses the County or the school unit which operates those busses will pay the costs and then, of course, the maintenance building and facilities is the cost of the county funds. And the operational costs then would be charged to the State funds or the State funds would pay the operational costs.

Q For the coming year will the County Unit provide bus transportation for children residing in the County Unit that want to go to school in Scotland Neck?

A No.

Q Do you know how those children will get to school?

A I do not.

Q Do you know if they will be provided public bus transportation?

A I do not. My opinion would be that they would provide their own transportation.

Q Another question from Mr. Josey: you talked about the effect on the interim plan appearing on page 15 of the County Survey. It is Plaintiff's—or Government's Exhibit 2. And under that plan how many grades would be taught at Scotland Neck?

A Under the interim plan?

Q Yes, sir.

A Ten through twelve.

Q Would those grades be taught at any other school in what is—

A Now this is—this would include both the junior high school site and the Scotland Neck main campus.

Q Those three grades, ten through twelve, be taught at any other school of what is referred to as District 1 of the interim plan?

A Will you repeat that, please?

Q Will grades ten through twelve be taught at any other school of what is referred to as District 1 in the interim plan?

A Not according to the plan recommended by the State.

Q What is the—outside of the Brawley School, which is on the edge of Scotland Neck, what is the closest high school building to the Town of Scotland Neck, and excluding the high school within the Town of Scotland Neck?

A Approximately eighteen miles.

Q Was at Inborden? Enfield?

A Inborden and Enfield, too. Two buildings.

Q Were there any objections made by members of the Board of Education to utilizing Scotland Neck and the Brawley Schools and the other schools in District 1 as appears in the interim plan?

A I don't believe I understand your question.

Q Well, were there objections from members of the Board of Education to utilizing the Scotland Neck School as provided for in the interim plan?

A No.

Q Objections from anybody on utilizing the Scotland Neck School?

A It was not brought to the attention of the Board of Education.

Q Do you know of any?

A Of course, the Board of Education as I recall did vary some here when they presented the plan to the Justice Department.

Q Without the Scotland Neck building then the interim plan, with respect at least to District 1, would have to be vastly altered, is that true?

A Let's assume that with the junior high school site and the present buildings on the main campus at Scotland Neck that there would be adequate space for grades ten through twelve, with possibly the use of some mobile

rooms. I believe they have four additional teaching stations—would be needed in the total district.

Q But if the Scotland Neck main campus by the operation of the Scotland Neck School Board were taken out of the Halifax County Unit, then would it be easier to adopt the interim plan or harder to adopt the interim plan?

A I don't know that there would be a difference.

Q Well, grades ten through twelve under the interim plan are going to be taught only at Scotland Neck and no place else in that district?

A According to this plan.

Q But if the—if the campus cannot be used by the Halifax County Board, where are grades ten through twelve going to be taught?

A Well, they would be taught in the Brawley School.

Q Referring to plaintiff's Exhibit #5 which is—I believe you testified was the proposed plan of school organization under the State interim plan, what is the expected total pupil enrollment for 1969-70, enrollment for Scotland Neck grades ten through twelve?

A This is a State plan, and you are speaking of that plan?

Q Right.

A Scotland Neck, 710.

Q If the Scotland Neck main campus and the anticipated enrollment of approximately a thousand children were removed from the proposed State plan, what effect would that have on the size of the remaining high school, wherever it is going to be located—how large would the high school be if all the Scotland Neck—if the one thousand Scotland Neck children were to be removed?

A Now you are considering that a thousand and twenty-some pupils would be removed?

Q Yes, sir.

A The Brawley School, high school, is your question, is that right?

Q I don't know where you are going to locate them, but assuming that you locate them in a high school.

A Well, this would be the only one within a reasonable distance of the children.

Q Right.

A I think I have the information here. Ten through twelve.

Q Yes, sir.

A According to the freedom of choice form tabulation would be 455 pupils.

Q Would that have any effect on the size—on the number of courses that you would be able to teach and the size of the academic program?

A That you would be able to teach compared to whatever situation?

Q Compared to the number of courses that you could provide for 710 children?

A I think more courses, different courses, would be offered with a larger high school, yes.

Q There's been some discussion about the geography and the size of the County. Are there areas—is there a belt of Halifax County of several miles which completely surrounds and circles the town limits of Scotland Neck?

A A belt of what? I didn't get part of your question.

Q Is the Town of Scotland Neck wholly surrounded on all sides by territory of Halifax County?

A Yes.

Q It is not on the border of the County?

A No.

Q It is wholly within the County?

A That's correct.

Q In the southeastern portion of the County?

A Yes.

Q Now in responding to Mr. Josey's question about some children residing in the Halifax County Unit under terms with the Halifax County Unit to go into the Weldon Unit, under an agreement of some sort, do you know the race of these children?

A I do not.

Q Do you know what schools they go to?

A No, I haven't been able to keep up with that because I do not keep the records.

Q Do you know who knows the race?

A Yes, I think the school authorities of the Weldon Unit would know that.

Q I see. Do you know the number of Halifax County residents that would go into Roanoke Rapids for school?

A The number of County residents?

Q County administrative residents that go into Roanoke Rapids to school.

A No, I do not have that information.

Q You mentioned that there are situations—there were Roanoke Rapids City Administrative Unit pupils or residents of that unit who go to two schools in the County. One you named I believe was William R. Davie. Did you name the other one?

A I did not name another school. From the Roanoke Rapids Unit?

Q Yes.

A No. There is another school nearby but to my knowledge no pupils from Roanoke Rapids attend that school. That is the Everetts Elementary School.

Q Is it your testimony then that there is only one school outside of the Roanoke Rapids City Administrative Unit in the County Unit that are attended by pupils residing in the Roanoke Rapids City Administrative Unit?

A Yes.

Q Do you know the race of these children?

A I am sure they are predominantly white. There may be some Negro.

Q You had also told us about some children, I believe, that go to Littleton and that are going to Haliwa?

A Yes, into the Warren County Schools, yes.

Q These last children who go to Weldon and go to Roanoke Rapids, those are in addition to the ones who have gone into Warren County, is that correct?

A Yes. There are a few children—and I don't know how many—that may be going from Halifax County Unit—a very few—because of a phasing out plan. They had started school before the Board of Education and that particular unit had made its regulations, enforced its regulations.

Q Are you aware of a ruling by the Federal District Court on the question of whether white children in a majority Negro school district can legally be permitted to attend school in another district?

MR. JOSEY: I object.

MR. KENNEDY: I ask him if he is aware.

A I don't know the exact decision of that case.

Q (Mr. Kennedy) Are you familiar with any of the Court rulings affecting the Northampton County School Board, which is next door to the Halifax County—

MR. JOSEY: I object.

A To some extent. From what I have read in the newspaper.

Q (Mr. Kennedy) Did you know that Judge Larkins ordered the Northampton County School Board to cease permitting white students residing in Northampton County from attending school in Weldon?

MR. JOSEY: I object to that.

A I have heard that this was an order either from the Department of Health, Education and Welfare or the Courts.

Q Are you aware of any regulations that are called the Health, Education and Welfare guidelines that were —forbid transfers across unit boundary lines?

A I am aware of such regulations that have been in effect, if they perpetuated the segregation of pupils; yes.

Q With respect to the bill introduced by Mr. Gregory I believe in 1965 for a separate administrative unit for schools in the southeastern part of the County, southeastern part of the county unit, what was the plan of pupil assignment that was used by the Halifax County Unit at that time?

A Prior to the introduction?

Q At the time of the introduction.

A What was the plan of organization?

Q No, sir. The plan by which pupils were assigned. Was it free choice or zones or what?

A Free choice, except for the transfer of certain grades last August before we began opening school, and I would be glad to—

Q 1965, it was free choice? That is when the bill was introduced, wasn't it?

A I didn't get your question. Will you repeat that, Mr. Kennedy?

Q You testified, in response to Mr. Josey's questions, that the bill introduced in 1965 to provide a separate administrative unit—that was introduced in 1965, and my question: was free choice used in the Halifax County Unit at that time?

A Yes.

Q Was it also being used in all of the surrounding administrative units?

A I do not know. I do recall that in Halifax County we adopted a regulation. When I say free choice, it began—

Q For some grades?

A At certain grades.

Q Some grades?

A That's right. And I don't recall that there was any free choice for any pupils in surrounding counties and units. I think this was 1965-66, if I am not mistaken.

Q You also then testified in response to Mr. Josey's question that—that there was some—a proposal made to some officials in Raleigh in 1966 for a consolidated school which, I believe, was to be located on the junior high school campus right outside of Scotland Neck. You remember talking with Mr. Josey about that?

A Oh, yes.

Q Was freedom of choice, at least for some grades, still being used in Halifax County in 1966?

A Yes. It began in the year—the school term 1965-66. There were some limitations to that in that year.

Q Do you have any reason to believe that if the consolidated school had been built, that it would not be subject to freedom of choice? How would that have been operated—by freedom of choice or what?

A That school would have been operated by freedom of choice if built at that particular time. I am sure of that.

Q What high schools would have been included in the areas serviced by the consolidated school? What then existing high schools would be consumed or consolidated into the new school?

A Well, this proposal was to—for a school to be built to serve all high school pupils in the entire area, known as the Scotland Neck attendance area, and would have included high school students now attending Brawley and Scotland Neck.

Q What would have happened to the—what grades would have been taught at Brawley?

A Well, this I do not know because there was nothing said about whether or not they would be given a choice for a while but certainly the school would have been built with an idea of serving all children in that area, if necessary.

Q That would have given you the new high school on the junior high school campus, the high school on the main high school campus, and the high school at Brawley. Were you going to operate the three high schools?

A I would assume that on the main campus at Scotland Neck there would have been only elementary children. Whether there would have continued to have been some high school students in the Brawley School I do not know. This was not presented as a consolidated—I mean the closing of two high schools. It was presented in the manner of serving the high school pupils in the area.

Q Was there any plan to close down the high school grades at Brawley as a part of this consolidation plan?

A It was not in the plan that was presented to the review panel.

Q Did the plan that was presented include closing down the high school grades at the main Scotland Neck campus?

A That was not so stated, but it would have—would have accommodated all of those now attending Scotland Neck Schools.

Q Are you saying—

A And it was so stated, that it would serve all the high school pupils in that area, but there was nothing

said in the plan that a certain high school would be closed. It was just understood that it might, that it would be. Now, to elaborate on that—but I will just answer your question.

Q Do you wish to elaborate, Mr. Overman. If you do, please go ahead.

A Well, I think everyone was operating—I mean schools certainly in the south, according to freedom of choice, as long as they were allowed to do so, until April a year ago when the Courts said that that was unconstitutional if it did not bring about a unitary school system, so this is the reason I am answering that question.

Q How many classrooms would this consolidated school have had, sir?

A I don't recall.

Q Do you have records that show that?

A Yes.

Q Do you know how many students would—the plans would call for to accommodate—to be accommodated there?

A I do not have those exact figures.

Q Was the school to be built in stages as you described for use at the new—

A It would have been built in my opinion so that it could be added to if more room was needed, yes.

Q Do you know whether the amount—the number of students that were planned for at the new consolidated school exceeded five hundred?

A Yes.

Q By how much, sir?

A I would say at least six hundred at that time. And if you wish to have a copy of this plan that was presented, I wish you would take a break and let me get the record.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Overman, in the break that we—just before we took the break you had volunteered to get some records of yours that would facilitate your answering some of your inquiries about the size and the other characteristics of the consolidated schools. Do you have those records with you now?

A Yes.

Q Do your records show how many classrooms would have been provided for in this school that we are talking about?

A This reports lists the number of different types of rooms, and if you will allow me, I will read each one. One library room, one home economics room, one biology or all science room, one physics-chemistry room, one business education room, twelve other high school classrooms, one agriculture shop, one general shop, one music room, one audiovisual room, one health clinic room, one guidance room, one teachers room—that is intended to be a lounge—two administrative office rooms, a gymnasium, and showering room, lunchroom, storage rooms, and so on. The anticipated cost of this building in 1960 was $750,000.00.

Q So—you said 1960.

A 1966. February 1966.

Q I'm sorry. What was this amount again, please?

A $750,000.00.

Q Do you have any information about the pupil capacity that the building would be rated for?

A It is not stated on this form.

Q How many teaching stations or teachers would be assigned there?

A This is not stated, but you may do some adding here. Be 12, 13, 14, 15, 16, 17, 18, 19—at least 20 teachers.

Q Teachers?

A Yes. Teachers rooms.

Q Teachers rooms. Is that equivalent to the number of teaching stations?

A Yes.

Q You have one teacher for each teaching station?

A Assuming that we would have—

Q Assuming you would have twenty teachers?

A Yes.

Q Is that a maximum or close to a maximum?

A Well, this was the plan that was presented to the State Board of Education. It was not stated in this application whether there would be other rooms built or

not, but as I recall the agreement was that they would be built as needed. And, of course, this report—this presentation to the State review panel did not say that there would be consolidations immediately, but it did say to serve all the high school pupils of the Scotland Neck area.

Q Well, you have testified that there are—at that time there were only two high schools in the Scotland Neck area, the Scotland Neck High School and the Brawley School?

A Yes.

Q Was this a consolidated proposal for a four-year high school, grades nine through twelve?

A Yes.

Q You were going to retain your grade structure breakdown, one through eight and nine through twelve, which is the general grade structure you have?

A Yes.

Q Which of any of the two high schools, Scotland Neck or the Brawley, could be accommodated in a building such as you have described to us?

A There would be a need for other classrooms to accommodate all of the pupils in the two high schools.

Q Could the Brawley High School have been closed down and accommodated in toto?

A In this request that was made at that time?

Q Yes, sir.

A There would have been need for other classrooms at that time.

Q But could the Scotland Neck High School—

A You mean Brawley alone?

Q Brawley alone, yes, sir.

A Approximately, yes.

Q How many high school students, approximately, could both Brawley and Scotland Neck have accommodated?

A How many high school pupils?

Q No, could both the Brawley and Scotland Neck High Schools—could they have been jointly together accommodated in the new facility?

A I could not say whether all of the pupils could with this much building, but there could have been other rooms built as needed.

Q Well, could the—to make it clear, could the students at the four top high school grades of the Brawley School, without any students from Scotland Neck, could the Brawley high school students have been accommodated at the new facilities?

A Yes. Approximately twenty teachers from Brawley School.

Q Well, what is the usual classroom—pupil classroom average; is it around 25 students per classroom?

A Approximately that. In high school level, of course, the allotment of teachers, that is the basic of teachers, of academic teachers—it's a formula: twenty pupils for the—I mean sixty pupils for the first three teachers and then thirty thereafter.

Q Well, does the County survey use the figure—County Survey, I mean the Plaintiff's Exhibit #2—use the figure 25 pupils per classroom as the average figure?

A I think this correct.

Q Well, if we use that average figure of 25 pupils per classroom and we have approximately twenty classrooms at the consolidated school, doesn't that give us a capacity of 500 children—twenty-five pupils per classroom and twenty classrooms?

A Twenty-five pupils and twenty classrooms, yes.

Q Gives us a capacity of about five hundred?

A That's right.

Q Was the number of high school students at Brawley considerably in excess of five hundred students at that time?

A At that time I suppose it was between five hundred and six hundred pupils.

Q Well, would it differ very much from the number of high school students at the Brawley School in the year just past—did it differ very much?

A Yes. The high schools are growing in the Negro schools because there are more pupils finishing high school than have been before. The high schools have been growing, particularly in the all Negro schools, because they

have greater holding power that they give until they graduate.

Q Well, do you have records that show the number of average daily attendance at the Brawley High School in 1965-66?

A Yes, we have that record, but it would take some time to—

Q I'm just asking if you have that record?

A Yes, we have it.

Q Okay. Has the number of high school students at the Scotland Neck High School, grades nine through twelve, increased or decreased or remained the same when comparing 1965 with 1968?

A I'd say it has increased.

Q Well, but do I understand correctly it would be your testimony that without additional facilities it would have been impossible to accommodate all of Brawley and all of Scotland Neck in one consolidated school?

A In this plan that was presented there would have been need for additional classroom space.

Q You discussed with Mr. Josey the tax rate in this proposed bill, and I believe you told him it would be about twenty-five cents per one hundred dollar valuation, and you also discussed the figure of sixty-three cents per one hundred dollar valuation, I believe was the County's combination per capita—I'm sorry, capital outlay fund and debt service, and that that—

A It was a combination of capital outlay and debt service that made the sixty-three cents back in 1957.

Q 1957. And that has decreased to—that is now at twenty-nine and a quarter cents per hundred dollar valuation?

A Yes.

Q What has happened to the assessed valuation of the County; has it increased or decreased or remained the same?

A It has increased.

Q Are there figures in the County Survey, Plaintiff's Exhibit #2, on page 33, that will show you the amount of the assessed valuation for the County from years 1963 to 1967?

A Yes.

Q And do those figures show an increase or decrease or are they constant?

A An increase in valuation.

Q Is it true that the increase over the five year period, 1963 to 1967 increase is from roughly just under eighty-seven million dollars to about a hundred nine million dollars?

A That is correct.

Q An increase of some twenty-two million dollars, is that right?

A Yes.

Q And, of course, that is the very important part of the equation which you are talking about, the tax rate; you have to know what the tax rate is going to be applied on, don't you?

A Yes.

Q It is not a complete story just to talk about the tax rate, is it?

A It is not because of the increase in building costs.

Q Do you know what the—

A Has risen rapidly.

Q Do you know what the amount of the assessed valuation is for the current tax year, sir?

A The current tax year?

A Yes, sir.

Q Total?

A Total assessed valuation. I'm trying to find out what the 1969—

A Approximately one hundred fourteen million dollars.

Q It's gone up one hundred fourteen million dollars?

A Yes.

Q Do you know if the—you have testified that the tax rate for capital outlays has decreased from 1957 through the current tax year; at least it has decreased from the combination that you have indicated there for the current year?

A Yes.

Q And you have also testified that for a part of that period the base of the assessed valuation has increased.

Do you know whether the amount produced by the tax levy has increased or decreased with respect to the capital outlay fund; the total amount that has been put into the fund—has it increased or decreased?

A Well, it has decreased because the tax rate has decreased even though the assessed evaluation has increased.

Q Are you saying that just because—I mean do you actually know what those figures are?

A I do not know the exact figures, but an increase in five million dollars evaluation would not take care of the decrease in capital outlay rate of, say, two cents or something of that sort.

Q Have you told this, or do you know what the capital outlay rate was in 1957? We know what the total combined rate was in 1957, but we don't know what the capital outlay portion was.

A I believe it was twenty cents for debt service at that time and forty-three cents for capital outlay. Now I can get this information if you want to take the time for it.

Q Going back for a moment to the plan for consolidation that—we recall the 1966 consolidation plan which you just testified. Was there any other plan at that time which would have in any way affected schools outside of the Scotland Neck area?

A Yes. A plan was presented that included this Scotland Neck building, which included an addition for the White Oak School, the Scotland Neck High School, a lunchroom at the Brawley School, a lunchroom at McIver School, and a lunchroom at Eastman School, and a lunchroom at Inborden School.

Q Was the plan you have just described—

A Now may I say that there was not money available immediately for all of this construction but this was a plan that was presented to the review panel so that they could build some facilities when the money was available.

Q Again referring to the time—back to the time when the plan was proposed, was there any discussion of changing from the freedom of choice plan to a straight geo-

graphic zone plan for any part of the County system at that time?

A There was not at that time that I remember.

Q Had any persons representing the Civil Rights Enforcement people, that is the Department of Health, Education and Welfare, had any discussion with you about civil rights compliance prior to time this 1966 plan was proposed?

A Yes, we have had conferences in Washington with HEW officials, set up conferences in Raleigh, and they have visited us several times. Now to get the exact dates —some visits occurred before 1966 and some have occurred since then. I believe that is correct.

Q Had you or anybody on behalf of the School Board that you know of told any of those persons that you were going to eliminate freedom of choice in the County at any date in the future?

A In 1966 had we told them?

Q Yes, sir.

A Not that I know of.

Q Were they interested in that kind of information?

MR. CREW: Object. I don't see how he can know what they were interested in.

Q (Mr. Kennedy) In your discussions were any interests expressed by the HEW people for a target date in the future when freedom of choice would be eliminated?

A Repeat the question, please.

Q I'm not sure I can. In your discussions in 1966 with HEW civil rights people was there any discussion of a future date when freedom of choice would be eliminated in whole or in part in the Halifax County Unit?

A It is difficult for me to pinpoint that date, Mr. Kennedy, but I would say in 1966 units were allowed to have freedom of choice. Now soon afterwards, possibly 1967 or certainly by 1968, they said that they must increase integration, both pupils and teachers, as rapidly as we could.

Q When the proposal of the 1966, consolidated school proposal was drawn up, was there any discussion of the effect the proposal would have on the desegregation of the schools of Halifax County?

A Was there any discussion by who?

Q By you or anybody that you know of?

A Well, certainly the Board of Education did discuss this and it was discussed before the review panel that this school would be a school that would serve the Scotland Neck area. Now whether there was discussion with the officials of HEW I do not recall.

Q How was—how was the consolidated school going to affect the increase or the decrease of the amount of desegregation in Halifax County?

A Well, if it was on the basis of freedom of choice without the consolidation of schools I do not know. It would depend on—it would have depended on what the children and their parents chose.

Q You discussed with Mr. Josey about some figures in which the Tryon City School System was mentioned. Just to refresh your memory—is the policy of the State Department of Public Instruction, State of North Carolina, to encourage smaller—the creation of smaller administrative units in North Carolina?

A Did you say 'increase' or 'decrease'?

Q Encourage the creation of new small administrative units in the State of North Carolina.

A And your question is: is it the policy for the State Department of Public Instruction to encourage that?

Q Yes.

A I'd say: no.

Q Is it the policy of the State Department of Public Instruction of the State of North Carolina to encourage consolidation of schools?

A Now, when you speak of the State Department of Public Instruction, are you speaking of the State Superintendent of Public Instruction only or all of the people in the State Department? Now just what do you refer to?

Q All right. Let's talk about the Superintendent.

A All right. I would say that it is the policy of the State Superintendent of Public Instruction to encourage the consolidation or merger of some of the smaller units.

Q Well, I didn't—I asked really about schools, but

I was going to get to the merger of units, also, but if your answer—

A You did not ask me.

Q I asked about the consolidation of schools.

A Sir, I am going to have to be slower in listening to you than I have been. Would you ask the question as you meant it, please?

Q I will ask the question in this way: does the State Superintendent encourage the consolidation, one, of schools and, two, of merger of small—

A. Yes.

Q And, two, to have merger of small units?

A Yes.

Q There's been some discussion of Dr. Cochran. He is a Negro doctor, is he, in Weldon?

A Yes.

Q And the amount of money that he was paid for services for some pupils during 1968 and 1969. What was the name of the program that these pupils were in that provided the federal monies to pay Dr. Cochran?

A It was a pre-school readiness program for children who are expected to attend school the following year—a six weeks program of pre-readiness.

Q Do you know of any white children who were referred to Dr. Cochran either year under this program?

A Referred to, after his examination?

Q No, sir, as a part of this program did he examine any white children?

A Yes.

Q He did?

A Yes. All who attended, as far as I know.

* * * *

EXAMINATION BY MR. JOSEY:

Q Mr. Overman, on this request in 1966 for the consolidated high school or for the school to be built on a location of the present so-called junior high in Scotland Neck, that building was in addition to the present junior high building, wasn't it—the building that you described?

A Yes.

Q Was in addition to the present facility over there?

A That's correct.

Q Now, wasn't it the plan that if that building could be built, to tear down the old Scotland Neck grammar school building, that old building—and it was built in 1903—and for what is now or this past year used for the high school to be used as a graded school only?

A Yes, to utilize that which was thought to be usable, yes.

Q And do you recall being at a meeting with Dr. Pearce in Dr. Craig Phillips' office—then Dr. Carroll's office—at which time a discussion took place between Mr. Pearce and Mr. Henry Harrison, a member of the Halifax Board at that time, regarding the fact that this would be a consolidated and integrated school for Brawley—Scotland Neck generally?

A Well, the statement, as I recall, was this building would be built to serve all of the high school children in this area. Now about the definite plans for discontinuing the high school, I do not recall that—consolidating any high school.

Q Of course, the present facilities of the junior high building over there, plus the building that you described here that was proposed, was certainly far larger than was necessary for Scotland Neck High School alone, wasn't it?

A That is correct.

Q Do you remember how many students we had approximately in the high school in Scotland Neck at that time?

A My estimate is around 300.

Q And at that time that was—the building that you described here, that you have here, that you have referred to on this form, was all the money that the Board of Education felt like it could supply to the—for the Scotland Neck facility—isn't that correct?

A Yes.

Q Was one of the main reasons that the Board or Mr. Pearce's division of the State Superintendent of Schools' office turned it down was that it wasn't enough

—was not enough physical land there at that site? Do you remember why they turned down the request?

A Well, this was one thing that was mentioned, that it would require more land for a high school than the ten acres and eight-tenths I believe we now have.

Q But as far as you remember and as far as you know there was certainly no requirement presented concerning integration—no requirement made by the State Board which the people of Scotland Neck refused to meet at that time, was there?

A No.

MR. JOSEY: All right. I believe that's all.

EXAMINATION BY MR. CREW:

Q Mr. Overman, are there at the present time in the school district areas or some of the school district areas white population of less than ten percent as the total population in some of the—in some of the schools in the County now?

A Yes, I would say so. Now I do not know exactly what you mean, Mr. Crew, whether you are talking about —you see the two schools are located close to one another. Now do you mean that to be one school or two schools?

Q I will reword my question then if I may. Are there certain Negro schools in the County that the general attendance covered by them, that the population would be approximately ninety percent Negro or more?

A Yes, in the elementary school attendance areas, definitely about that.

* * * *

HENRY L. HARRISON

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. BOURNE:

Q Would you state your name and address for the record, please?

A Henry L. Harrison, 1806 Clarksville Drive, Scotland Neck.

Q Mr. Harrison, what business do you carry on?

A I'm in the oil business. Operating manager, wholesale oil distributorship in the City and surrounding area of Scotland Neck.

Q How much education do you have, sir?

A I completed two years in the engineering school at North Carolina State College back in the thirties.

Q Where did you attend public school before then?

A Right here in Scotland Neck.

Q Do you have any children in school here?

A No, sir.

Q Did your children attend school?

A Yes. They attended and graduated here, and one has finished college and the other one is a junior in college at the present time.

Q Have you held any public office in Halifax County; have you ever held—held public office here?

A In Halifax County. None other than as a member of the School Board.

Q What were the dates of your membership on the School Board?

A From November 1955 until December 1968.

Q Were you the only representative on the School Board from the Scotland Neck area?

A Yes, sir. Now we had a member from the Hobgood area; but the Scotland Neck area, as such, as I was the only member.

Q Were you vice-chairman of the School Board?

A Yes, sir.

Q During the whole period you were on it?

A No, sir. No, sir. Probably the last seven or eight years I've been vice-chairman of the School Board.

Q Now, Mr. Harrison, it is my understanding—strike that. Is it correct that in November of 1968 you took a trip to Tryon, North Carolina—

MR. JOSEY: Let me interrupt. Off the record just a minute.

(DISCUSSION OFF RECORD)

A Would you state your question again, sir?

Q (Mr. Bourne) In November of last year or thereabouts did you take a trip to Tryon, North Carolina?

A I think November is the right month, yes, sir.

Q Do you recall who went with you on this trip?

A Yes, sir.

Q Who did?

A Mr. Gregory, Mr. Shields, and Mr. Josey and I.

Q For the record, could you give the first names of those people?

A Mr. Frank Shields, Mr. C. Kitchin Josey, and Mr. Thorne Gregory.

Q Do you recall the purpose of this trip?

A State your question again, sir.

Q Do you recall the purpose of this trip?

A Yes, sir. The purpose of this trip was to determine if it were feasible to operate a small school system such as Tryon has. I had been informed that they had the smallest school system in the State of North Carolina—city school system, that is.

Q Do you recall who told you that—gave you that information?

A I got that information from the State Department of Public Instruction's record, the book you have in your —Profile of Education, I believe it is. It was published and distributed to the members of the Board of Education in the latter part of 1968 or early 1969, sometime in that area.

Q Did you correspond with the people who run the Tryon school system prior to taking a trip out there?

A Only by telephone.

Q Do you know if anyone else here corresponded with them in writing?

A No, sir.

Q Do you recall who you spoke to?

A Yes, sir. I spoke to a Mr. Dussenberry, whom I did not know, over the telephone.

Q The purpose, I believe you stated—am I correct—was to determine whether it was feasible to operate a school system as small as the one in Tryon?

A That is correct.

Q While there did you take any notes or make any records as to the manner in which the Tryon School System was operated?

A Only—no, sir. Only mental notes. We secured a copy of his budget for that school system for the previous year. He went over it with us and explained it to us, showing us—we were primarily interested in local funds —how much they had in local supplemental taxes to operate. And to compare it against what we would have in this area.

Q Did you finance this trip on your own or was it financed by someone else?

A Well, I think we paid for the gas, I believe. We flew up. And we paid Mr. Gregory—in Mr. Gregory's plane, his individual plane—and I believe I paid for the gas. That was on my own, too.

Q I believe I asked you about your own notes or records?

A Yes, sir.

Q Did anyone else take any notes or maintain any records or memorandums?

A None that I know of, sir.

Q Except for the budget?

A Except for the budget.

Q And do you recall—do you know who has possession of the budgetary material that you picked up?

A I think Mr. Josey has that.

Q How long prior to your trip to Tryon had you been engaged in conversations—had you heard conversations indicating interest in Scotland Neck in developing a new independent school district for the Town of Scotland Neck?

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

A Will you state that again, please, sir?

Q (Mr. Bourne) How long prior to your trip to Tryon was it when you first heard a conversation concerning the desirability or non-desirability of developing an independent school system for the Town of Scotland Neck?

MR. JOSEY: Well, I object.

A Well, that goes—to answer that truthfully, that, I'd have to say there's been conversations concerning an independent school system in Scotland Neck since we in-

troduced the bill in the Legislature in 1965. There have been people that have been interested in it all these number of years because of the fact that they realized getting supplemental and additional taxes county-wide was going to be a problem.

Q Am I correct in assuming that the bill in 1965 did not involve a proposal for the school district, for the Town by itself, but for a larger area?

A You are correct, sir. It involved four townships.

Q Four townships. What were they?

A Conoconnara, Scotland Neck, Palmyra, and Roseneath.

* * * *

Q I'm sorry; it's not quite clear to me. Well-strike that. Do you know whether any sample ballots or leaflets were passed out at the polling place on the day of the election which favored passage of the referendum of the school system?

A To my knowledge, no, sir. The only ballots that were used were used by the colored citizens who had a delegation there that would talk to their group as they entered the polls, and they had sample ballots to show them. Other than that, I don't know of any that took place.

Q I believe you also testified that you—strike that. Do you know—you say you don't know anyone who passed out leaflets or sample ballots in favor of the bill?

A No, sir. No, sir. There was advertisements in the COMMONWEALTH and leaflets passed out in opposition to the bill by the colored people.

Q I believe you testified that you made a statement before the Legislature, before a committee of the Legislature, is that correct?

A Yes, sir.

Q Do you recall the substance of your remarks to the Legislature?

A Yes, sir. I think the only thing that I said to the Legislature—I brought up the fact that we had lost fifty-five children from this area to private schools and that I thought that this type of thing, unless something was done to hold our public schools and the support of our public schools, that this type of thing was going to con-

tinue, which would eventually siphon most of our white students away from our units. I believe that was the extent of my remarks before the committee. Someone spoke prior to me and I thought covered everything very well.

Q The private schools that you have reference to, which—do you know where they are?

A Yes, sir. There is one over in Jackson in Northampton County. There is one in Rocky Mount in the process of being built that will be open this fall—a brand new one. There is one called the Enfield School, but that actually is in Whitakers. Now, what they have done is bought an old school building that has been abandoned by Nash County over there. And at that time there was a threat of another school, a private school, being opened in the Hobgood area. And, also, I have heard—I don't know how true it is—that there has been one in the Halifax area. I don't know how true that is.

Q Do you know the race of the pupils who attend these schools?

A Private schools?

Q Yes, sir.

A As a general rule, most of them are white, I'm sure.

Q Do you know of any Negro school—do you know of any Negroes that attend these schools that you mentioned?

A No, sir, I do not. They are all tuition schools. I don't think they accept them.

Q Do you recall, while you were a member of the School Board, negotiations with federal authorities concerning desegregation of schools in Halifax County?

A Yes, sir. Back as early as 1964 or 1965, with H.E.W.

Q What sort of plans were developed by the local school system prior to that time? Generally, were they zoning, free choice?

A No. Prior to 1968 everything that was done in Halifax County was freedom of choice.

Q Do you recall the first contact that the County School Board had with the Department of Justice in Washington concerning the operation of schools here?

A Yes, sir. I believe it was in August of 1967 or '8. In June, I believe, one of your people came down and investigated Mr. Overman's office, and about—he reported that to the Board at that time—and about thirty or sixty days later, something like that, he reported at the Board meeting that this letter he had received from them, saying that we were not in compliance. That was shortly before school began this year—I believe it was the beginning of the 1968 school year. 1967-68 school year, I believe.

Q Would you read this letter which I am showing to you? It is a letter dated July 27, 1968, a copy of the letter dated July 27, 1968.

A Read the whole letter?

Q Well, just look it over and determine whether that is the letter—that is a copy of the letter that you had reference to in your remarks.

A I couldn't tell you that. I never saw the letter, sir. All I—Mr. Overman put—

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

MR. JOSEY: Well, I think he answered your question. He never saw it.

A I never saw it. Mr. Overman just put these things on the note in the agenda for the Board, a letter from so-and-so, stating we are not complying, and then he usually reads those letters. Whether I was at that meeting or not—I never saw that letter. But I never saw that letter. No, sir.

Q (Mr. Bourne) Now, just for the purposes of clarification, if you can remember—please get as close to the time as you can—when you first heard from the Department of Justice—you heard of this letter. Was it in the summer of 1967 or was it in the summer of 1968?

A The summer of—well, I'm sure it was—the first we heard from the Justice Department was in 1968. That was the year that we had to transfer students right at the last minute, and that—the date on that letter indicates, because—the first meeting we had was August and school was beginning the latter part of August and we

had less than thirty days to make all of these arrangements, and we were in a mess.

Q Do you recall whether a delegation from your School Board travelled at that time to Washington to negotiate with the Department of Justice?

A Yes, sir. Our School Board has travelled to Washington on every occasion we have had—where there was a letter written from them we have sent a delegation to see what could be worked out.

Q Do you recall what ultimate plan the School Board came up with in order to meet the requirements of the federal law in August of 1968 prior to the last school year?

A You mean that was in effect in 1968?

Q Yes.

A Well, what we did was—I'm more familiar with this area; but I think it generally worked throughout the County. We closed the seventh and eighth grade at the Brawley High School and moved those children to the Junior High School in Scotland Neck. I think we closed the seven grades in Enfield and moved those children to the Enfield Graded School, and I believe we closed the seventh and eighth grade at Chaloner and the seventh and eighth grade at Littleton—I mean, at McIver, and sent Chaloner's children to Davie and Littleton children to Aurelian Springs.

Q Do you recall how much desegregation there had been prior to this date—strike all of that. Prior to the adoption of this plan in August 1968 how many Negro children were attending Scotland Neck School in the 1967-68 school year?

A I would say probably 35 were attending the white —predominantly white school in 1967.

Q How many white children were attending Brawley School?

A I don't believe there were any, sir.

Q Did these transfers of non-white students to—strike that. Did these non-white students who attended Scotland Neck go there on the basis of freedom of choice?

A Yes, sir, I believe they did. In 1967, you're referring to?

Q 1967-68.

A Yes, sir.

Q Do you recall how many attended Scotland Neck School in 1968-69, in the Scotland Neck School?

A I would say there were in the neighborhood of two hundred colored students in 1968-69, Mr. Bourne. Now, sir, these figures are all guesswork on my part, but I assume that is about right. Mr. Overman has given those figures—could give them to you.

Q I would like to show you forms sent to the Government by Halifax County School Board in the Fall of 1968, and this is for the Scotland Neck School. This is the 7001 Form. This is the approximate. Is that figure, a hundred ninety-three pupils, approximately correct?

A Well, this is Mr. Henry Overman's signature, and I assume this is as correct as he knew how to get it. Yes, sir, a hundred ninety-three is what the figure shows.

Q Prior to the adoption of this plan how many Negro teachers taught in the Scotland Neck School?

A Prior to 1968?

Q Right. In the 1967-68 year how many Negro teachers taught in the Scotland Neck School?

A I couldn't answer that question, sir. I don't remember. I would think there were one or two probably back in 1967.

Q Do you recall how many there were in 1968-69? How many teachers there were in the Scotland Neck School?

A I would say there were six or eight possibly, Mr. Bourne.

Q On the basis of those estimates which you believe to be substantially correct, would you say that substantially desegregation of the Scotland Neck Schools resulted? What caused this—strike all of that.

MR. JOSEY: Object.

Q (Mr. Bourne) On the basis of these figures, which I believe you stated that you believe are substantially correct?

A Yes, sir.

Q How many of these children—I believe—strike all of that. I believe you have testified that there are ap-

proximately 35 Negro pupils in Scotland Neck in 1967-68 and approximately a hundred ninety-three or two hundred in 1968-69. Is that correct?

A That is correct, sir, in my opinion, yes, sir.

Q That is an increase of about a hundred sixty students, roughly, isn't it?

A About that, yes, sir.

Q Do you recall whether most of these one hundred sixty students were persons who attended the seventh and eighth grade in the Scotland Neck School?

A Prior—you mean prior to 1968?

Q No. There were—strike all of that. I think you have just said that there were approximately a hundred sixty new Negro students in the Scotland Neck School in 1968-69 who had not been there previously?

A That's correct.

Q Were most of these new Negro students at Scotland Neck attending the seventh and eighth grade at Scotland Neck as a result of the transfer of Negro pupils from Brawley, which you made reference to earlier?

A They were attending as a result of the order closing the seventh and eighth grades in the Brawley High School.

Q And most of them were, is that correct?

A Most of the new ones were because the seventh and eighth grade no longer existed in the high school. It was the only seventh and eighth grade in the City, within the City area.

Q Among seventh and eighth grade students do you know a majority of them in the Scotland Neck School were white or Negro?

A I would say they were predominantly Negro in the seventh and eighth grade.

Q Do you recall the approximate percentage of them who were Negro?

A No, sir, I don't. I don't know the figures.

* * * *

Q Do you believe that that would have been one of your reasons for wanting to have a good survey done?

A I think it was. One of my reasons was that I wanted to get on with the business of education and get

some new facilities for Scotland Neck. I felt that the integration problem would take care of itself as time went by. We have been in dire need of funds for building purposes. And I don't remember when that three million dollar bond issue was voted—maybe these gentlemen can tell you—but I know that money has been sitting up there five to seven years and hadn't been used and I thought it was used.

Q I believe you said you were not present at the meeting that voted to ask that the survey be made?

A That's right.

Q In your official capacity of—as a member of the School Board did you have conversations with the other members of the School Board concerning this prior request?

A No. I think I am on record on several occasions in asking that the survey be made. I think Henry Overman will tell you not only that, but in several prior years I had requested survey after survey and I couldn't get anywhere with the Board with it.

Q Let me just show you page 7 of Plaintiff's Exhibit #2, of the survey, the Halifax County Survey, 1968, "Major Problems, number four at the top of the page, is indicated: "The shifting of pupil population brought about by the 1964 Civil Rights Act.

MR. JOSEY: What is the question?

Q (Mr. Bourne) Is that one—was that one of the major problems of of the school district in your view as a member of the School Board?

A Well, I think when he refers to that is when you people—and I refer to you people, the Justice Department or H.E.W., whoever it is giving the orders—waiting until July or August, thirty days before school starts, and we have to come up within thirty days and move trailers and move electrical connections within—just completely rearrange organization of the whole school within thirty days. I think that is what he means—the major problem. I don't think that race would enter into it, but if you could in right today and do the same thing and have to move all the trailers around and move all of these people, it would create quite a problem for the County. Not

only the County, but everybody involved administratively. And you must remember that this was done within about thirty days. A final determination was made within about thirty days of school starting, or probably less.

Q Do you recall that there would be any long-range problems that the school system would have to deal with on a County-wide basis if total desegregation comes to the County in light of your experience as a member of the School Board for fourteen years?

A Yes, sir, I do.

Q Would there have to be shifting of certain facilities, expansion of certain facilities, closing of others perhaps?

A I'm sure there would, yes, sir.

Q So, then, in determining a long-range plan for Scotland Neck, for Halifax County, a plan of construction or in operation of school buildings, in an area where prior to 1968-69 there had not been total desegregation of public schools, you would have to consider possible desegregation at least in the future in determining what your plans would be, is that correct?

A Well, Mr. Bourne, the responsibility for school construction rests with the people of this County. The funds for that are provided locally, except in rare occasions. Since I've been on the Board there has been one Statewide bond issue and we haven't been able to spend any of that money even yet, in the thirteen years I've been on the Board. The attitude of people, the tax structure involved throughout the County, and the other things that go on in the County have an awful—I mean, they are related to this thing of construction. I think you will find in our County percentage-wise we spend about—the State average of percentage of taxes collected as any—we are about the State average based on percentage of taxes collected that go to schools. But when you get into a county in which your evaluation is limited, we start talking about long-range proposals, you're talking about years ahead, and I can't see schools looking three years ahead. And it's been changing every year. It is hard to project what is going to happen in a long-range situation.

I went on the Board in 1956—'55. And the bond issue recommended in 1955—as a result of a survey that was made in 1950. So we were ten to fifteen years behind there, and we are getting further and further and further behind here. So when you refer to long-range things, I just can't project down the line of what is going to happen. I think the people in Scotland Neck are willing to take their part of the responsibility and do what is right, and I think we have proved that in this bill we are not trying to deny anybody because of race, creed, and color in education. We are trying to better ourselves in that light.

* * * * *

Q Are you aware generally of the contents of that bill?

A Generally, yes, sir.

Q Let me read the preamble to the bill.

A All right, sir.

Q As it is stated here. Quote, an Act to improve and provide public schools of higher standard for the residents of Scotland Neck and Halifax County, to establish the Scotland Neck City Administrative Unit, to provide for the administration of the public schools in said administrative unit, to levy a special tax for the public schools of said administrative unit, all of which shall be subject to the approval of the voters in a referendum or special election, period. At the time of the passage of this Act were you aware that preamble stated that its purpose was to improve the schools of Scotland Neck and Halifax County?

A Yes, sir.

Q Can you tell me in your own words what studies you made prior to the enactment of this bill—strike that. Can you tell me in your own words what studies you made prior to the introduction of this bill into the Legislature as to the improvements which creation of a separate school district for Scotland Neck would give to the children in Scotland Neck?

MR. JOSEY: Let me ask you is that question: what studies he made?

MR. BOURNE: Yes, sir.

A Well, having been associated with the schools as long as I have, I am well aware that the improvement in any school comes through, first, administration; secondly, through improved teacher — teachers; thirdly, through improvement in relationships between parents and teachers and administrative personnel within the area; and, thirdly, I was concerned with the—the fact that teachers and administrators had been hard to get in this area due to the fact that all the surrounding areas are offering supplements. For instance, a man teaching math here, if he would go to Roanoke Rapids or to Weldon, or to Rocky Mount, or to Tarboro or elsewhere within thirty miles of here and get more money than he could in this area, and as a result we were losing teachers to those particular areas. Secondly, you asked now, as I understand, what studies I made?

Q (Mr. Bourne) Yes, sir.

A As to why it would be improved. I secured from the Superintendent of Schools the budget, or I had a copy at that time of the budget that we used for 1968 school year, and based on the tax evaluation involved there, I took the local funds involved and prorated those based on the average number of daily students we had in school this year, which I figured would be about the same amount we would have in the City System. It was strictly guesswork. And came up with the figures, plus the additional funds that the fifty cent levy would provide to determine how much more money we would have available, and outside of that, a feeling that those funds would be sufficient, that the school would under proper administrative guidance and with local support running as high as it was in the procurement of teachers and the workings of the local people toward adjusting a curriculum that would satisfy the students in this area, I felt that those preliminaries were enough for me to move on in this bill.

Q Did you make a study—did you make any study of the interests of students of the Scotland Neck Schools, of the educational interests of the students there to determine what their interests were?

A Prior to the introduction of this bill?

Q Yes, sir.

A No, sir: I felt that prior to the introduction of this bill that the interests of the people would be shown at the poll, which I think the vote substantiates.

Q But in terms of education advantages to the children of Scotland Neck you made no study of the interest area of the high school?

A Not of the student body as such, no, sir.

Q Did you consult with the counsellor who teaches or did teach in the Scotland Neck School before this bill went into effect concerning the advisability of this bill?

A No, sir.

Q Did you consult with the principal of the Scotland Neck School?

A Yes, sir. I told him that this bill was being introduced.

Q Do you recall whether he rendered a professional opinion?

A He did not.

Q Do you know—what is his name, sir?

A Edwards.

Q Do you know his first name, for the record?

A Donald Edwards.

Q Did you consult with the—any professional educators concerning this bill prior to the introduction?

A Yes, sir.

Q Could you identify those persons?

A I consulted with the Superintendent of the Tryon School. I don't remember his name now.

Q Did you discuss with him the interest areas of pupils in his system?

A Yes. We looked his whole school system over and found that he was fully integrated, and studied the information we had concerning his school and he verified all of it to us, yes, sir.

Q Did you take any notes on the curriculum given at that school?

A No, sir.

Q Did you take any notes on the areas of accreditation of teachers in that school? Areas of certification, excuse me.

A No. These figures were available in the State publication.

Q Did you have those in your possession and study those prior to—

A Yes, sir, I did.

Q —prior to introduction of this bill?

A That book has been introduced as evidence.

Q Which book are you referring to, sir?

A You have the evidence here.

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Is it the book you are referring to, sir?

A That's correct.

Q I will ask you just to read the title of it.

A Profile of Significant Factors in Education in North Carolina, a Ranking of School Administrative Units, dated July 1968.

Q Does that list specifically the—give the course offerings at Tryon's School District?

A No, sir.

Q Did you know what course offerings were offered?

A Well, we talked to him about course offerings, but I didn't make any notes or anything. We were particularly interested in vocational—the vocational phase of his school and asked him about those areas.

Q Was the reason for your request there that vocational education is often a very expensive proposition and you wanted to find out whether a small school district could bear that expense?

A Yes, plus the fact that I wanted to know why he didn't have the same type of vocational programs that we have down here, and since then I have talked to other superintendents about the same matter.

Q What is the—what kind of vocational programs have you had here in the past at Scotland Neck?

A Well, we have only had three vocational programs at Scotland Neck in the past. One is vocational agriculture, which admittedly has been slipping for the last number of years. Another is the home economics department

for the girls, and just recently they put—the last two years—they put in a trades and industry program here in Town in which I think bricklaying and basic carpentry has been taught.

Q What sort of program was offered in Tryon that interested you?

A I've forgotten the name of it. But I think it's a form of distributive education, in which a child attends school for half a day and then he is farmed out to the various interests that he shows. For instance, if we have a young man that is interested in banking, you would keep him in school for his curricular activity for a half a day and then send him in to a bank for a few hours of training under the guidance and supervision of the bankers themselves, or any other industry that might be—if a man wanted to be a service station man or if he wanted to be a clerk in a store, or if he wanted to be a secretary, or anything—that type of thing interested me up there in how they operated it.

Q Do they have an agriculture program in Tryon?

A No, sir.

Q Is there a major staple crop which is grown in the vicinity of Tryon, such as cotton?

A I couldn't answer that question, sir.

Q Is there one which is grown in this area, such as tobacco or cotton?

A Oh, yes. We grow cotton, tobacco, and peanuts in this area.

Q Do you know how many pupils—excuse me. Strike that. Do you know whether they have an industrial arts program in Tryon?

A No, sir, I don't.

Q Do you know how many pupils attend agriculture courses here in Scotland Neck—attended last year?

A I have no idea, sir.

Q Do you know how many attended the trades and industries courses?

A From the Scotland Neck School?

Q Yes, sir.

A Or from both schools?

Q Scotland Neck School.

A No, sir. I am sure it was a very small number.

Q You think there would be more in agriculture than in trades and industry—I mean—yeah, in trades and industries courses?

A From the Scotland Neck School?

Q Right.

A I expect there would be, yes, sir.

Q I think you stated, did you not, that the towns of Weldon, Roanoke Rapids are able to offer supplements to their teachers which the County has not been able to do in the past, is that correct?

A That's correct, sir.

Q Do you know how much the supplement is in Weldon?

A No, sir.

Q On a per teacher basis?

A No, sir. I know they have a graduated supplement. I think it runs based on experience. I couldn't tell you exactly, but I think it runs anywhere from—a beginning teacher, from $225.00 or $250.00 per year on up to $450.00 or $500.00 per year. It depends on—

Q Is that true for Weldon or Roanoke Rapids or both?

A That is true for Roanoke Rapids. Now, how they work it in Weldon, I'm not familiar with that, sir.

Q So you really don't know the amount of the supplement or were you fully aware of the amount of the supplement?

A I was fully aware of what Roanoke Rapids offered between those figures. I know it was on a graduated scale. That's all I know.

Q You didn't know exactly how much a teacher with three years' experience and a B.A. degree—

A No.

Q —would be getting in teacher supplement?

A No, sir.

Q I think you stated you talked to the man in Tryon, did you not?

A Yes, sir.

Q Aside from him did you discuss the advisability of setting up an independent school district in Scotland Neck with any other educational authorities?

A Yes, sir. I talked it over with Dr. Craig Phillips.

Q Do you recall whether he recommended or opposed the establishment of an independent school district here?

A He's told us that he would have to oppose us because it was against the policy of the State Board of Education and he was a servant of their board—I guess that's what I want to say. I also asked him if—told him that we were there as interested citizens in public education and our primary purpose was to maintain and keep public education going, and if he had any alternatives, I would appreciate him stating them before we introduced this bill. He said money is what you need. And then he went so far as to say that if I could wave a magic wand and build you a fully integrated, completely equipped high school, with teachers with imagination, said I think you would change your mind. I said: is there a possibility of that happening, in that wand being waved, and he says no.

Q Did you discuss it with Dr. Pearce?

A No, sir.

Q Did any other citizens from Scotland Neck discuss it with Dr. Pearce?

A I don't know whether people have been to see Dr. Pearce. We—now, when I was up to see Dr. Phillips, we just spoke with Dr. Pearce. Dr. Pearce used to be coach right here in this school of Scotland Neck. He is familiar with all the buildings. They were right here when he was coach. We spoke to him as a friend, that's all.

Q You didn't seek his professional opinion?

A No, sir.

Q Did you make any notes on your conversation with Dr. Phillips?

A No, sir.

Q Do you know of anyone else who did make notes?

A No, sir.

Q Who was the citizens who attended the meeting with Dr. Phillips with you?

A Mr. Shields and Mr. Josey and myself, and my brother, the Mayor.

Q Do you recall who arranged these meeting with Dr. Phillips?

A I don't recall who it was. It was done. I imagine Mr. Josey arranged it. Because I do remember asking Mr. Overman if he would arrange it and he said he would rather not do that, and I said: do you have any objections to our talking to him, and he said: no, go right ahead. And so that is when we contacted Dr. Phillips' office—somebody in the group, probably Mr. Josey.

Q Aside from discussing it with Dr. Phillips and . . . . the name slips me. But the principal of the school —I believe it was the principal of the school in Tryon, or was it the superintendent?

A The superintendent.

Q What is the superintendent's name, sir?

A I don't know his name. I can't think of his name. I had to look it up when I called him.

Q Aside from discussing it with those two persons, did you discuss it with any other educational professionals?

A No, sir, not that I know of.

Q In determining the needs of the students in the Scotland Neck area in adequacies or inadequacies of the local schools, did your group employ a professional educational consultant?

A No, sir.

Q Did you consider employing a consultant?

A No, sir.

Q Do you know of anyone who recommended that you employ a consultant?

A No, sir.

Q Now I believe you did state, did you not, that you obtained the budget for the County for the 1968-69 school year in the school system?

A I had those budgets because I was a member of the Board at that time, and when the final adoption—I had about a half a dozen copies after making them up and presented them to the County Commissioners, and when they came back he gave us a final copy. That meant it was whatever the County Commissioners gave us.

Q Did you—I believe—am I correct in stating that you also computed roughly the amount of additional funds which would be available on the basis of the fifty cents tax?

A Yes, sir.
Q What was the figure that you arrived at?
A The fifty-cent supplemental tax?
Q Right.
A It will run between twenty-four and twenty-five thousand dollars.
Q Is that—does that —
A Of course, that was based on last year's tax evaluation.
Q Does that figure include—strike that. When one determines the tax yield from a given amount of tax evaluation for the Town of Scotland Neck, is it relevant to determine the amount which is actually going to be collected and as opposed to the amount which is possible to be collected?
A Yes, sir.
Q Do you know what percentage of taxes is collected in Scotland Neck—strike that. Do you know what the —I believe that is called the cost of collection or the—no, strike that.

Do you know what percentage taxable yield is actually collected in Scotland Neck in every year?
A Yes, sir. The information I received prior to this, that over ninety-six point-some percent of the taxes had been collected within the taxable period. We figured our budget on ninety-five percent.
Q So it would be ninety-five percent of twenty-four or twenty-five thousand, is that right?
A No, sir. The twenty-four or twenty-five—between twenty-four and twenty-five thousand dollars. The five percent has already been taken out.
Q Is there also a cost of collection?
A No, sir. No cost at all to us here in the City.
Q On the basis of twenty-four or twenty-five thousand dollars extra and above what you have had here in the past in the local schools?
A Yes, sir.
Q How much did you compute that to be on a per pupil basis?
A Oh, it seemed to me that we—the figure I believe the County expended was $39.29 in local taxes per child

last year. We figured that figure would at least double. We figured it would be about $80.00. Somewhere along there.

Q How many student were figuring having in Scotland Neck School?

A As I told you before, I based my figures on the average daily attendance last year, which at that time was 974 students I believe.

Q A little under a thousand?

A Yes, sir.

Q And you anticipate getting approximately $42.00 per pupil?

A Well, whatever it figures out there. We figured it would run approximately $80.00 in local funds, counting what we get from the County per student, plus what the twenty-four thousand dollars will put in there, will give a total of approximately $80.00 per student.

Q Did your estimate of $80.00 per pupil—let's see, that is—you said you believed you got about $39.00 per pupil?

A I think your book will show, this profile will show it was $39.29. Not that one. The other book. The profile of students. My figures were quoted strictly from the State Department of Public Instruction, except for the estimate I made in the expenditure, adding what we get from the local tax evaluation.

Q I am showing you the document which is the Plaintiff's Exhibit #2, the School Survey of Halifax County, September 1968, page 36, which is for 1966-67. There is a table ten that indicates that the amount of local funds—

A That's right, sir. $39.29.

Q Is that the figure that you recall?

A That is the figure that I used as a county expenditure, yes, sir. Per child.

Q Right. And with nine hundred we can round that off to $40.00. Off the record.

(DISCUSSION OFF RECORD)

MR. BOURNE: The parties have stipulated that for the purposes of figuring per pupil cost, with this witness, the figure $39.29 found in table ten of the 1968 School

Survey, Plaintiff's Exhibit # 2, will be rounded off to forty, and the figure 979 pupils anticipated for the 1969-70 school year, by Mr. Harrison, will be rounded off to 1,000.

Q (Mr. Bourne) Mr. Harrison, on the basis of these rounded figures of approximately a thousand students anticipated to be in your school system—

A Yes, sir.

Q —and on the basis of the $40.00 given—the $40.00 that the State—that the County provided—strike State.

A Yes, sir.

Q How much additional money would this tax yield per student?

A You're referring to the local city tax?

Q Right.

A On that basis it would yield $25.00 per student more.

Q I believe you said you anticipated getting approximately $80.00 per student, including the County and the local money?

A That's right, sir.

Q Could you describe for me how you anticipated getting the additional money? I believe the 25 and 40 add up to 65, is that not correct?

A That's right, sir.

Q How did you get the additional money, going up to 80?

A I anticipated a hundred fifty families that would apply for tuition in the Scotland Neck School, and used a round figure estimate of a hundred dollars for the 150, or a total of $15,000.00 additional money.

Q So it would be averagely contemplated that there would be a hundred fifty students?

A Not a hundred fifty students, but a hundred fifty families at a hundred dollars a family, and I just grabbed that figure out of the air and it worked out in the budget using those figures.

Q Were the figures that you used the same ones that the proponents of the bill had in mind when they thought about the educational advantages and the amount of money which would be available per student in the County—I mean in the Town?

A Well, those figures were shown when I figured them at that time, yes, sir.

Q When you were figuring budget costs for the Town school system, the proposed Town school system, I believe now you have testified that there will be approximately forty thousand dollars in your estimate that would be available for the Town schools which had not previously been available?

A Supplemental taxes, that's right, sir.

Q Either from tuition or supplemental taxes?

A That's right, sir.

Q And did you have any idea that some of that might be—might have to be expended in administrative costs?

A No, sir. It depended on whom the Board of Education hired as a superintendent, what his salary was as laid out by the State of North Carolina, and how much experience he had, and so forth, as to just whether it would have to be involved or not into a supplement to handle a superintendent. We didn't anticipate any great amount of that being involved in the administrative costs.

Q Does the State scale for superintendent salaries vary with the size of the school district?

A It varies with the number of the school—number of children involved in a school, yes, sir.

Q Is the—

A And the size of the district has nothing to do with. It is the number of children involved and it is the experience that this man has, whether he is coming into this position new or whether he's had previous experience as a superintendent, or—and those factors. What his degree is, whether he has his masters, whether he has a principal's certificate, whether he has a doctorate—all of those things are—enter into it. What the state sets as salary increments and increases each year.

Q Do you know how much money the State will pay a superintendent with no previous experience as superintendent in North Carolina schools or any other schools for the school system the size of Scotland Neck?

A No, sir, I do not.

Q Do you know how much pay a principle of a school with, say, a M.A. degree and—a masters degree and five

years of experience at teaching, as a prineipal, how much money he would be paid?

A No, sir, I do not. Those figures are set up on a pay schedule by the State. I am sure they would be available to you, but I do not have them.

Q Do you know why—do you have any idea whether it might be necessary to supplement the superintendent's pay?

A No, sir, I didn't until a decision was made one way or another on whom to hire and not to hire, and I don't know anything about this man's qualifications or anything.

Q Were inquiries made about prospective superintendents before the bill was passed?

A No, sir, not that I know of, except we asked—a figure was forthcoming from the State, when we talked to Dr. Phillips, of $22,000.00 per biennium, which has been quoted by the newspaper as $22,000.00 a year. And apparently that was a figure—he said that was a figure for the superintendent, and office personnel. That I assumed was a bare minimum for a beginning superintendent, or $11,000.00 a year, you see.

Q That is what the State pays?

A That is what the State furnishes, assuming—I don't know how Dr. Phillips arrived at that, but that is the figure he came in with. He said this money will be allocated for that purpose I believe. $22,000.00 per biennium.

Q Per biennium. Is it correct that one of the basic factors in determining the quality of the school system is the quality of its administration?

A Absolutely.

Q Has that been your experience as a member of the School Board for fourteen years?

A Partly so, yes, sir.

Q But am I correct in understanding that you—beyond knowing that the State would apply approximately $22,000.00 per biennium for administrative costs, you didn't know whether the Town would have to supplement that in any way?

A No, sir. We couldn't have known that until the

superintendent was approached, his salary discussed, his qualifications discussed, and so forth.

Q How many principals will the State allocate to the Scotland Neck School System; how many principals will the State allocate to the Scotland Neck School System?

A I understand they will allocate one principal's salary.

Q Do you know whether it is anticipated that there will be more than one principal in the local schools?

MR. JOSEY: I object. In the first place I don't think he has any knowledge of it. I know he doesn't know—he has no connection with the school board, and I just don't believe he knows the answer to these questions. Of course, if he does I don't mind him answering, but I don't believe he knows the answer to them.

MR. BOURNE: I think he's already testified there would be $25,000.00 based on this tax, additional funds. I want to ask him the possible costs of running the school system and what sort of surveys he made as to the cost of running the school system, on the scale of the Scotland Neck school system.

MR. JOSEY: Okay.

Q (Mr. Bourne) Would you answer the question?

A Will you repeat the question?

Q Did you anticipate there would be the necessity for a second, or third principal for that matter?

A No, sir.

Q Is there only one principal in the Scotland Neck School System today?

A That's correct, sir.

Q And he is principal of the high school, elementary and junior high school, is that correct?

A Absolutely.

Q He was last year?

A Yes, sir.

Q Is he a teaching principal or is he a principal full time?

A A full-time principal, sir, or he was last year.

Q Do you believe it is sound administrative practice to have a full-time principal?

A Yes, I do.

Q In a school of approximately a thousand students?
A Yes, sir.
Q Was a request made for the twenty-two—or twenty-two thousand dollar figure to meet administrative costs before the Legislature?
A No, sir. It automatically comes with the creation of the city—under the statutes I believe it automatically comes with the creation of the city administration.
Q Was any request made for other funds, such as money from the Alcoholic Beverage Control Board to supplement monies to come to the school board?
A The only other request was the Alcoholic Beverage Control Act set up for Halifax County states certain percentages of the money will go for enforcement, certain percentages for operating expense of the Alcoholic Beverage Control unit, a certain amount will go to the cities, municipalities, and after all of these cuts are taken, the remainder is divided among the school units of Halifax County. The bill as it was written says between the Weldon, Halifax, and Roanoke Rapids School Units. We asked our Legislator to amend our bill to read: the balance to be proportionately divided among the several units in Halifax County, that's all.
Q Was that done?
A I assume it was. I don't know whether it ever reached the conclusion or not, sir.
Q How much money was involved—would have been involved on the basis of last year's figures for the school children in Scotland Neck?
A You mean out of the ABC Fund?
Q Right.
A Last year's figures?
Q Yes.
A County-wide?
Q Well, did you figure how much? I don't know how that is figured. Does that follow the pupil—
A Still on a per pupil basis, yes, sir.
Q Do you know how much money was available to the County last year?
A I did know, yes, sir, and I've forgotten. It seems to me that figure was around forty-two or fifty-two thousand dollars.

Q Forty-two or fifty-two thousand dollars?

A Something like that. The budget will reflect that, from last year, sir.

Q Is that for the County or for the County and Roanoke Rapids and Weldon?

A That was the County's proportionate part.

Q I see. And assuming that they get the same amount of money, is it correct that the Town would get a percentage of that which would be in the same ratio as the student body?

A The Town has already gotten theirs before the money gets in the act.

Q The Town school system?

A The Town school system would be allocated on the percentage of the total amount of children set up, yes, sir. Not only does that apply to A.B.C. Funds, it applies to the several other things, such as intangible taxes, and other various items that are listed in the budget.

Q I believe you testified earlier that you anticipated in addition to the extra funds accruing because of the fifty-cent tax increase, extra funds in the amount of approximately $15,000.00 to come from tuition paying students from outside of Scotland Neck, is that correct?

A That's correct.

Q And I believe you stated that the basis for that determination was that there would be approximately a hundred fifty families desiring that their children attend schools in Scotland Neck?

A That's right, sir.

Q And that they would be willing to pay, or that they would pay approximately a hundred dollars per family?

A That is the basis I went on.

Q For the education of their children here in Scotland Neck. How did you arrive at the figure of a hundred fifty families?

A Well, I, of course, have been in this work so long I knew approximately how many children were being transported bus-wise, and I knew how many were coming in by their own vehicular method, and I just grabbed a figure out of the air.

Q Is that approximately commensurate with the number of families who have sent children to the Scotland Neck School?

A I think it's approximately the number of children who have attended the schools in Scotland Neck.

Q The number of children who have attended high school or elementary school or junior high school?

A That's correct.

Q How did you arrive at the one hundred dollar figure?

A I picked it out of the air and figured it at a hundred dollars a family and put $15,000.00 in the budget, and then that is when they said: well, now, can you operate a school on these figures. I said, well, this figure here is a guess. I think it's accurate, approximately where the families are, but what the Board of Education will set up as a figure for tuition I can only guess, but assuming that they do, on this basis, it would mean $15,000.00. So we used that in the figures to arrive at a total figure before we ever went to Tryon.

Q How many children were represented by your estimate of approximately a hundred fifty families; how many children were you talking about?

A I didn't get into the children end of the thing, the number of children, because I wasn't figuring number of children. I was just figuring families. And some of those families will probably have four or five children. Some of them may have one.

Q Do you know how many children attended Scotland Neck School—who will attend Scotland Neck School reside within the Town of Scotland Neck?

A All of them that are in the city limits will attend.

Q Do you know how much—what that figure is approximately?

A No, sir. The only thing I know is the letter you were showing me, in which Mr. Overman calculated those figures. I knew nothing about how he arrived at them or where he got them. All of those figures have been calculated since I had anything to do with it.

Q Well, what I'm—strike that. Of these 150 families you said in your knowledge had children—to your knowledge had children in the Scotland Neck School and who

might desire to send their children to the school next year, how many of those children would have been white and how many Negro?

A I couldn't answer that, sir, because our proposal throughout the entire program has been that anybody who cared to pay the tuition, regardless of the race, creed, or color, could attend the school.

Q Am I correct in saying that you understand that there were approximately 200—I think you said—Negro pupils in the Scotland Neck School last year?

A That's correct.

Q And am I correct in saying that there were a little under a thousand total pupils in the Scotland Neck School last year—is that correct?

A In average daily attendance, yes, sir.

Q And those are the figure you have already testified to today—

A Yes, sir.

Q —as your estimates?

A Yes, sir.

Q Am I correct in stating that you have those figures approximately in your mind at the time you proposed this bill? I think you testified to that, is that correct?

A Yes, sir. That's correct.

Q Have you not also stated that your estimate of a hundred fifty families in Scotland Neck, families—strike that. Am I not correct in saying that your estimate there are a hundred fifty families who live outside of Scotland Neck who have sent their children to school in Scotland Neck was based on figures for last year?

A My estimate was a hundred fifty families, yes.

Q Concerning the tuition policy of the—that you felt the school district here might adopt and the one you figured into your calculations as to how much money would be available and how many students would be involved in the total school system here—strike that. In 1968 or early 1969, before this bill was introduced into the Legislature, creating the school district, did you propose that the Town of Scotland Neck join with other surrounding areas in creating a school district in 1968 or early 1969?

A No, sir, because that had been killed.

Q Was there any consideration to—given to including the Brawley School within the boundaries of your school district?

A No, sir, there was not.

Q Any particular reason why it was not?

A Yes, sir.

Q Would you state the reason, please?

A The reason would be if we included Brawley School within the city limits of Scotland Neck, we would be denying all of the people in the outside area of the school to attend without tuition. We would have the building under our control and the control of the City and would not be allowed under the law to accept those children, or under the plan of the Board of Education to accept those children unless they paid tuition. And I think you will find that about ninety percent of the children in Brawley School are brought in by bus. We had nothing to gain but more buildings, more facilities, and denying the rest of the children the place to attend in the County. As it is they have now a choice of a school with tuition or a school without tuition. The County has the facilities. They would have been left without those facilities and the facilities would not have been needed by us—all of them anyway.

Q How many pupils are there at Brawley School?

A I couldn't tell you, sir, since they have moved them around like they have. I think it's something less than a thousand maybe.

Q Around a thousand maybe, approximately a thousand?

A I couldn't tell you. I said something less than a thousand.

Q Are those pupils—are any of those pupils—have any of those pupils been white to your knowledge in the last five years?

A I think I have stated that. No, sir.

Q I asked you about last year.

A Last year was your question?

Q I said in the last five years.

A No, sir.

* * * *

Q Do you know the number and the location of these mobile units?

A I believe there are six or seven at the junior high school and one on the main campus, or there might be nine. I'm not sure. I haven't counted them.

Q If you anticipated one thousand students in the Scotland Neck School System for next year when you made your determination as to the cost of educating children for the school district, the independent school district of Scotland Neck, did you figure that you would probably have available the facilities, both permanent and mobile, at the Scotland Neck Junior High School?

A No, sir. I figured that that would be a possibility, that we would have to buy some mobile classrooms to place on our permanent campus.

Q Do you know what a mobile classroom costs?

A Yes, sir.

Q How much do they cost?

A About five thousand dollars apiece.

Q How many did you anticipate purchasing?

A I didn't anticipate any quantity whatsoever. You will be receiving capital outlay funds from which this money could be expended from the County, and if you had to have them you could purchase them from that. It's in the County budget. Our proportionate part will be coming back from capital outlay funds.

Q But you didn't know how many would be necessary, is that correct?

A No, sir, I couldn't answer that because the only thing I could do is estimate the figures, and I have made that statement several times, that there would be a possibility of having to use mobile classrooms or purchase mobile classrooms if all the students that I thought were coming appeared and did come.

Q If the children—approximately a hundred children of a hundred fifty families did not come to Scotland Neck Schools on a tuition basis next year, under present arrangements where would they go to school?

A I have no idea, sir. The County has facilities for them. If the County can get them to go to those facilities, fine. You know, you can lead a horse to water, but you can't make him drink.

Q What would be the difficulties of getting those children to go to those facilities?

A I have no idea, sir. It would be individual families and their feelings concerning this matter, plus the fact that I think most of them would feel that they would want to attend the school they have been attending all of their lives. Most of the people involved here graduated from this school. They want their children to graduate. They have been treated right over the years. They know the people in Scotland Neck, are interested in education, and I couldn't tell you what the people think and why.

Q Are the County schools outside of Scotland Neck, but in the southern part of the County, presently crowded, overcrowded, or under-utilized?

A I think you will find that the rural schools that were built are becoming under-crowded. At one time they were crowded. For a number of years we added from the original plans. We set forth expenditure bond money. I think you will find in this County we added more classrooms than the original plans called for at these secondary schools around. In the last year or so, or couple of years, due to mechanization in this area, due to shifting population, and things of that nature, I think you will possibly find there are some extra rooms in the secondary schools surrounding the area now.

Q What about the elementary schools?

A That is what I'm referring to now.

Q The elementary schools?

A Yes, sir.

Q And, therefore, if the approximate 300 pupils who live outside of Scotland Neck, but may attend Scotland Neck Schools next year, were to go to County schools, there would be plenty of rooms for them. Is that true?

A I would say there would, yes.

Q Is that true? Would that be true even if the County no longer had available the Scotland Neck Junior High School?

A I would—

Q And its mobile units?

A I would say so.

Q Even though to your knowledge—

A Now, let me qualify that statement to this degree: that is in this particular area I'm referring to now. What happens in the upper end of the County, where the industrial growth and the population changes are, is altogether different from what they are here. I am not speaking for that when you ask me about County schools. Now, I'm referring to the surrounding area, within a twenty-mile radius of Scotland Neck.

Q Is Brawley High School—is Brawley School—strike that, 'high school'—undercrowded, overcrowded, or at capacity?

A I couldn't answer that, sir. Now, I tell you, until I left the Board, up until one year before I left the Board of Education, we made a trip to every school in this County once a year, inspected the percentage—all the members of the Board of Education. The last year we didn't. We were just so tied up with things, with H.E.W., and you people, that we never could find the time to get around. And so I left the Board in December, and I don't know if they made another trip around to these schools or not, or just what the conditions are as far as being crowded or overcrowded, I can't tell you.

Q Do all of the seventh and eighth grade pupils who live outside the County—did all of those pupils who live outside of Scotland Neck—scratch all of that. Did all of the seventh and eighth grade pupils who live outside of Scotland Neck previously attend Brawley High School prior to last year?

A No, sir, because we had some in our school under freedom of choice.

Q Were most of those white or most of those Negroes?

A You mean predominantly in those two classes?

Q Yes.

A I would say predominantly white, but some Negroes.

Q Until last year, until this past year when the seventh and eighth grades were moved?

A That's correct, sir.

Q When you established the figure of approximately $40,000.00 as extra money which would be available to your school system here as a result of the creation of

the new school system, did you have any definite ideas as to how this money would be spent?

A No, sir. I think that should be left to the professionals who are qualified to recommend a program and to the discretion of the school board who will supervise the work.

Q Can you tell me what the major areas of inadequacies were which led you to—strike that. Would you think that some of this money might go into capital outlay for expansion, or would you have thought that then?

A Well, I cautioned everyone where these figures were concerned that since this was the first year, that I didn't know how the money would go, that the people were voting this money and putting it here to be used for a good purpose; I hoped that they would use it that way, and that if it was—it was my recommendation that if we found that if we did not have to use all of these funds, that a capital reserve account be established into which these funds could go for capital outlay at a later date to improve the facilities we have.

Q Did you consider spending this money on special personnel salaries, such as vocational education?

A I haven't anticipated spending it any way, but I feel that if a superintendent in which the board has great confidence should come up and recommend a special fund for such and the money was available to meet the needs of the people, I think the funds should be used that way.

Q So you did not anticipate spending any for vocational agriculture or music arts programs?

A I haven't anticipated spending the money any way. I have anticipated making recommendations on how it should be spent to the school board.

Q Do you know how many courses were taught in the Scotland Neck High School last year?

A It seems like I remember a figure of 30. 39, 36, or something along that line.

Q Am I correct in understanding you have already testified that the recommended minimum for a school system which has eighteen required number of credits, either the recommended number of courses that that school would carry is 52?

A I think I said 54.

Q Am I correct in saying 54?

A Yes, sir.

Q Did you anticipate expanding the curriculum of the Scotland Neck High School?

A I never knew anything about that recommendation until I heard it the other day. It has never been passed on to a layman such as me until the other day.

Q Was that when you heard Mr. Overman testify?

A Yes, sir.

Q In deposition in this case?

A Yes, sir.

Q Well, now, the purpose of the bill, I believe you have stated you knew, was to improve the education of students in Scotland Neck?

A That's correct, sir.

Q And I believe you testified that you went to Tryon to determine whether it was feasible to maintain a public school system, is that correct?

A Yes, sir.

Q A public school system of this size, is that correct?

A Yes, sir.

Q Am I also correct in understanding that, although you knew there would be extra funds available to the local schools as a result of the implementation of—strike 'implementation'—as a result of the creation of the independent school system in Scotland Neck, you had no definite plans or ideas as to how that money should be spent?

A Read that question back, or state that question again, please.

Q Am I also correct in understanding that, although you knew there would be extra money available to the school system, to the schools here, as a result of the creation of the separate school district for the Town of Scotland Neck, you did not have any plans or definite proposal as to how that extra money should be spent to improve the schools of Scotland Neck?

A I did not make any such proposal, no, sir. I think that is the job of the professional.

Q Did any of the other proponents of the bill make such recommendations or proposals before the bill was passed?

A Oh, no, sir. No, sir. None of that was—we stated, I stated rather, at the P.T.A. meeting when this thing was held some things—some areas in which it could be improved, such as getting hard-to-get—using these funds to supplement for hard-to-get teachers, maybe some extra library equipment, maybe extra art materials, and other things, but so far as a definite proposal was concerned, I didn't try to make any definite proposal because, since I am a layman, that should come from professional people and I feel that they are better qualified to recommend than I am.

Q I believe you testified earlier that the County had a reserve of approximately $827,000.00 for capital outlay?

A I didn't testify that. I said they had some funds available.

Q Well, is that correct?

A They had some money that—when I left the Board, but they expended some since then on some projects, but right now I understand the figure is approximately $827,000.00.

Q When you left the Board approximately how much was it?

A It was in excess of that. It seems like to me it was eight hundred seventy or ninety-some thousand dollars. Something like that.

Q Is it correct that you anticipated that the Scotland Neck School Board would have a prorated share of that money available to it for capital expansion?

A I did, sir.

Q To your knowledge has the Scotland Neck School System been able to obtain its prorated share of that money?

A To my knowledge the Scotland Neck School System hasn't made any attempt at the present time to get it. I feel that, since this is bond money voted on, paid in by the citizens and being paid for by all the citizens of Scotland Neck, I think we are entitled to it. It might be a legal point that will have to be argued later, but as of

the present time I don't think—the Scotland Neck City Unit to my knowledge has not made an effort to secure these funds yet.

Q Have you heard of any difficulties which persons involved with the Scotland Neck School District have anticipated might arise in getting hold of this money?

MR. JOSEY: I object. Now you're really getting out in the realm of conjection. You've got that from—off the record.

(DISCUSSION OFF RECORD)

A I have heard that. I have seen no official communication from the district attorney, but I have heard that he has ruled that these funds would not be available for the Scotland Neck City Administrative Unit.

Q (Mr. Bourne) Is that the Attorney General or the District Attorney?

A Attorney General of the State of North Carolina. However, the Attorney General turned around and refunded from the Roanoke Rapids Unit the prorata part of the bond funds to the County of Halifax when that John Armstrong Chaloner was taken in, which amounted to several thousand—fifty-some-odd thousand dollars, so you can take the $890,000.00 and add three hundred fifty more thousand dollars to it. Now it's a legal question. I am not a lawyer. But I would certainly fight it before I'd let it go.

Q Were you aware, before the bill was passed, that there might be some diffculty in this, some sort of difficulty in this area?

A No, I had none. I based my judgment on what had happened in the Roanoke Rapids and the John Armstrong Chaloner situation.

Q Was that prorata share of the eight hundred thousand dollars in money that you had reference to when you told persons here in the County that you might have to buy mobile units, but the money was available?

A No, sir, because the State will not approve buying mobile units out of State bond funds. They have to go in permanent structure. What I referred to was the capital outlay program of the County or County funds, of which this unit will receive its prorata share.

Q Are you aware of whether a tuition program has been adopted by the Town of Scotland Neck for out-of-Scotland-Neck students?

A I don't think the Town of Scotland Neck has anything to do with it.

Q Well, the school system, the Scotland Neck City Administrative Unit.

A Am I aware of one having been adopted?

Q Yes, sir. A policy.

A What it is I do not know. I never have seen a letter or any information on what the policy is on that. I don't know. But I am sure there has not been one. It seems to be standard procedure throughout the State of North Carolina—the law specifically states you can operate with tuition or without. The General Statutes provide for that.

Q Sir, am I correct in understanding then that you don't have any idea, for instance, as to how much they are going to charge the students?

A No, sir. Nothing official on that.

Q Well, unofficially?

A No, sir.

Q Do you have any idea what pupils are going to be able to exercise the opportunity to come to the school on a tuition basis only, those who made freedom of choice last year, or any students?

A I do not know anything about the students, assignment of students. Those that have requested Scotland Neck I know nothing about their race. I know nothing about who plans to come. I know nothing about what it's going to cost them or any of the financial arrangements on it. It's been out of my hands since it left the Legislature.

Q As to eleventh and twelfth grade students who previously attended Scotland Neck High School and who would want to return, but who live outside of the Town, are those persons going to have to pay tuition, is it your understanding?

MR. JOSEY: Object. He said he didn't know anything about the tuition plan.

A I don't know, sir.

Q Now, Mr. Harrison, I interviewed you at your home Sunday, July 13th?

A Yes, sir.

Q About four in the afternoon?

A Un-hunh (affirmative answer).

Q And didn't I interivew you from four until around 6:30, except for a short period in which you had to go out on business?

A That's right, sir.

Q At that time did you not tell me that it was your understanding at that time that eleventh and twelfth grade students who lived outside of the County, but who had previously attended Scotland Neck—lived outside of the Town but who had previously attended Scotland Neck would be permitted to attend Scotland Neck free?

A No, sir. You misunderstood me, Mr. Bourne. The only thing that I told you: it was my understanding that those children who lived in the city limits and had attended Brawley and requested to return to Brawley to graduate, rather than being assigned against their will, would be allowed to do it under the freedom of choice plan that was going on, and to my knowledge tuition—you might have misunderstood me; but tuition wasn't involved in that, sir.

Q For the children who had previously attended Brawley?

A That's right. Now, let me make this very clear. The children that are in the eleventh and twelfth grade in the Scotland Neck white school are in there of their own free will and choice. Now the colored children—I don't think any of those will want to return. But it was the assignment of the other children who have normally attended Brawley School that wanted to go back, that we were going to allow to go back to Brawley School, that's correct, but nothing involving tuition.

Q Let me ask you just one or two other questions, Mr. Harrison.

A Yes, sir.

Q During your fourteen years as a member of the County School Board did the County administer a summer school program?

A Sometimes they did.

Q The County Unit, County School Board?

A Well, the County School Board didn't. Well, we administered summer programs, but it was only started as E.S.E.A. and federal money was available for such programs. We never did prior to that.

Q Was County money expended in that effort?

A No, sir.

* * * *

Q How many white children are there in Scotland Neck School System?

A Approximately twenty-three or twenty-four hundred.

Q Do you know how many Negro children there were last year?

A Approximately eighty-three or eighty-four hundred.

Q And of those 2300 aproximately 700, according to those figures, will be attending—approximately 700 white children will be attending schools in Scotland Neck next year, is that correct?

A If they are allowed to come. That is the figures, yes, sir.

Q And 2300 less 700 would give you what figure?

A Oh, that would give you about 1600.

Q Whereas, the number of Negro pupils that will be taken out of the Scotland Neck System, according to these figures is what?

A 92.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q Taken out of the County School System and put in Scotland Neck Schools?

A No, that isn't—that says one to ten who requested a school located in Halifax County, 92. They are being taken out of the City, 92 of them.

MR. BOURNE: Correct, but—off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) You do know that it will be 700 white children approximately who will be attending the schools here next year, if plans go according—

A Have requested assignment, yes.

Q Will the taking of those children, white children, out of the Halifax County School System affect the desegregation of Halifax County Schools?

MR. JOSEY: I object to that. Desegregation is something—he doesn't know even what it means, and I don't either, and I don't think you folks know, and he can't possible know what you mean by desegregation because I don't think the lawyers know, and I don't know that he can possibly know, and I object to it.

MR. BOURNE: (To Witness) You can answer the question.

MR. JOSEY: Answer the question.

A I don't see how it can affect the desegregation of Halifax County because these children have never been to any other schools except this one.

Q Will it reduce the percentage of white children in the Halifax County System?

MR. JOSEY: I object.

A The latest figure Mr. Overman gave me, there would be a two percent difference—two or three percent —I've forgotten. I think he said it goes to eighty percent, from 78.6.

MR. BOURNE: Your witness.

EXAMINATION BY MR. JOSEY:

Q Mr. Harrison, as far as you understand the law to be, will the creation of the Scotland Neck School System completely comply with all the laws that you understand to be in effect at the present time concerning abolition of the dual school system within Scotland Neck?

A Yes, sir.

Q Will all children, black, white, or whatever color, race or creed, go to the same one school that—the one school available?

A Yes, sir.

Q As far as you know will all students be assigned on a—within the Scotland Neck School System on a completely non-discriminatory basis to classrooms and be treated equally, completely without regard to race, creed, or color?

A Yes, sir.

Q Does—has, basically, the dual system of operating of schools been in existence in Halifax County for some number of years?

A Yes, sir.

Q Under the program that you understand which Mr. Bourne has asked you about, that the Halifax County Schools is going to operate in 1969-70 and thereafter, do you have an opinion as to whether or not the Scotland Neck School will operate in compliance with the law as far as—strike all that. Under the present plans or under any—under the plan that you now understand the Halifax County Schools to be operating, will the Negro students of Scotland Neck be afforded an opportunity to go to a completely integrated school, whereas, under the County plans at least they would not, that is, Scotland Neck Negroes that live within the Scotland Neck School District will in fact go to an integrated school, the vast majority of them, whereas, under the present plans and the plans in the past the Negro students that were in the County system would not in fact go to a—the majority of them—go to an integrated school—isn't that correct?

A That's correct. There would be some areas in which the schools would remain completely black regardless of what type of instruction were they afforded.

Q Now I believe you—aren't you of the opinion that the average Negro family is larger, has more children per family, and more students per family generally than the white families in Halifax County?

A Yes, sir.

Q If that assumption is true and your opinion is correct, would that not make the tuition fee, whatever it is, on a per student basis more—cheaper per Negro student that it would per white student that may want to come into the Scotland Neck School Unit from the Halifax County School Unit?

A Based on the size of families, I would say: yes. I don't know how they are arriving at the tuition, but on a family basis it would be, if you figured it out per head, cheaper.

Q Now I believe Mr. Bourne asked you about the fact did you know that there were only 36 courses taught in Scotland Neck high school during 1968-69, and I believe you said that was probably correct as far as you know. Didn't he show you something in one of those books and you said you had no reason to disagree with it?

A I had no reason to disagree with Mr. Overman's figures.

Q And, also, I believe he showed you some figures that 54 was the minimum requirement or minimum suggested for a good high school and you agreed that as far as you knew that you didn't know any reason that that was not right—in one of these books—isn't that correct?

A I agreed that those figures and the way they were determined, I knew nothing about it until just recently, but apparently it has come out. I believe, if I remember correctly, the Governor's Commission recommended it.

Q Doesn't that recommendation to you, Mr. Harrison, mean that this school that has been operated by the Halifax County School—that the Scotland Neck School that has been operated by the Halifax County Administrative Unit for 33 years has not been operated on an academic level which is a desirable level for operating of a school?

A If those figures are any criteria or any standard to go by, I would have to answer: yes.

Q Now I believe he asked you about your education and you said you grew up in Scotland Neck community and that you went to Scotland Neck School. I will ask you if in fact, from the time you went to the first grade until the time you graduated from high school, you did not in fact attend the Scotland Neck School which was a city unit at that time all the way through?

A It was a city unit when I completed—entered and completed my education in Scotland Neck.

Q And don't you know that the Scotland Neck School operated as a city unit from way back at the turn of the century until approximately 1963?

A That is correct, sir.

Q Now, I believe you—he also asked you about a letter from the Justice Department, dated July 27, 1968,

and I will ask you if in fact this—if you don't know that this school survey—I believe that is Government's Exhibit 2—that the request from the Halifax County School Board was made in—at the June meeting of 1968, some month and a half or two months prior to the July 27 letter from the Department of Justice?

A The survey was requested before any correspondence by the Justice Department, yes, sir.

Q And I will ask you if in fact it was not—strike that. Don't you know that prior to that July 27, 1968, letter that Mr. Francis Kennedy, possibly early in July or possibly the latter part of June, in fact made an investigation which was the first indication that the Justice Department was in any way involved in the Halifax County Schools or had any complaint, or that the Halifax County—that that was the first indication from the Justice Department in any way involving this matter?

A I don't know whether Mr. Kennedy made this investigation or not. I know that there was a representative from the Justice Department sent in and it was reported to me by Mr. Overman. He went through our files and told him he would let him hear from him at a later time.

Q And I will ask you if in fact you don't know that this request for this survey was made before any communication from the Justice Department during that year or any other previous year?

A Yes, sir. It was requested of the State Department before that time.

Q Right, sir. So that this school survey, as far as your recollection is concerned, and the request that it be made, the request coming from the Halifax County Board of Education to the State School Planning Division was in no way prompted by or connected with the Justice Department's threat which later come in sometime in August 1968, isn't that correct?

A That's right.

Q Now, to clarify that word 'threat', I'd—

MR. KENNEDY: Thank you.

Q (Mr. Josey) I'd like, Mr. Harrison—isn't it your understanding that what took place during the summer, the latter part of the summer 1968, was that apparent-

ly the Justice Department received a complaint from certain parents in Halifax County, stating that they were —that the Halifax County Board was in violation of the Civil Rights Act of 1964 and as a result of that complaint Mr. Kennedy made an investigation, and then in July 27, 1968, Mr. Kennedy, or his office, notified the Board that the investigation revealed that Halifax County School Administrative Unit was in violation of the 1964 Civil Rights Act, and that we had to do something —that the Halifax County Administrative Unit had to do something about it before the—immediately?

A. All of this was told to me by the Superintendent, and I assume it is correct. Whether Mr. Kennedy was involved in this investigation I cannot say.

Q But, basically, that was—that was the chronological sequence of events as you recall them as a member of the Board, that occurred in the summer of 1968?

A That's correct, sir.

Q Now, I believe Mr. Bourne asked you about whether or not you had—that you considered the panel of surveys committee which prepared the School Survey of Halifax County in 1968, Government's Exhibit 2, whether or not you considered them to be competent professional personnel, and I believe you answered that as far as you knew they were competent, is that correct?

A That's correct.

Q I believe that they did indicate the approximate amount of funds that would be required to implement the plan that they proposed, isn't that correct?

A Yes, sir.

Q Did they in any way indicate or suggest methods by which the School Board of Halifax County was going to raise these funds or as far as you know consider any of the practical aspects of obtaining these funds in this survey?

A I believe it is in that survey, sir, or whether it was given to us in another form I don't remember, but I do remember that a recommended bond issue of four million dollars was proposed county-wide, which would mean that Roanoke Rapids, Weldon, and all of the Halifax County Unit would have to vote on it. Secondly, it would call

for a county-wide increase in current expense, taxes; if I'm not mistaken it was either fifty-three or fifty-six cents increase in taxes. And even at that, with the State bond funds now available to go into this project, those bond funds we've been talking about laying up there, we would end up $600,000.00 short, which would have to be accumulated in capital reserve account for two years. I believe that that was their recommended proposal of paying this.

Q Now, have you lived in this area, in this County, and in fact in this community, basically all your life except the time you spent in World War II?

A Yes, sir.

Q Have you been involved as a citizen and as a school board member in proposing and campaigning for bond issues?

A Yes, sir.

Q In the past?

A Yes, sir.

Q Have you been—are you generally familiar with the political ramifications of this County concerning the passage of various fund raising tax and bond measures?

A Yes, sir.

Q What is the feasibility—strike that. I believe you testified that you had resigned and were no longer on the Halifax County School Board at the time that this School Survey, Government's Exhibit 2, was actually presented to the School Board by Dr. Jet Pearce, or were you?

A I don't remember, Mr. Josey, whether I was still on there or not. It was right at the tail-end of 1968. I was either going off or I—he may have presented it the day I resigned. I just don't remember.

Q In fact, you were there at that School Board meeting at the time he presented this survey, isn't that correct?

A That's correct, sir.

Q And do you recall the discussion of the members of the Halifax County School Board, who represented various areas of this County, do you recall that generally?

A I recall the general discussion on it, yes, sir.

Q I will ask you if it wasn't the unanimous unofficial opinion of that School Board that it would be im-

possible to pass a school bond issue for this County and raise the necessary funds to implement the plan as set forth by the—in the School Survey, Government's Exhibit 2?

A That was the general feeling of all of them for several reasons, one reason being that they had just completed a bond issue, something like a half a million dollars, five hundred thousand, or half a million—I've forgotten which it was, in the—in all areas of Halifax County with the exception of the Scotland Neck trading area for the purpose of building a new hospital in the upper end of the County. At that time this tax increase was estimated to run nineteen to thirty cents, I think, increase in taxes. Another reason was that Roanoke Rapids has had maximum supplemental tax of fifty cents, and another reason, that Weldon had its supplemental tax, I believe, of twenty cents. And we felt in order to carry this bond issue in this election it would be necessary that these two units be in support of it. They did not support this survey. We asked them to come in for a county-wide survey and they did not see fit to do that. And it was the general opinion the Board, unofficial opinion, that we just couldn't get a four million dollar bond issue through on a fifty cents tax increase. Now if it were done on just the basis of the County area alone, those figures would have to go up considerably, and in fact four million dollars is all the bonds, taxable bonds, can issue for school buildings now because we are still paying off a portion of the three million dollars, so that four million dollars is the bonded limit that we could go at that time.

Q Now Mr. Bourne asked you some questions concerning A.B.C. school funds. There is a fund available under the A.B.C. profits law of Halifax County. And I will ask you, assuming that the Legislature did in fact change the bill, the A.B.C. profits bill for Halifax County, and in fact included the school administration unit of Scotland Neck along with the other three units, would that in any way decrease or diminish the per pupil amount of A.B.C. profits that will be distributed to the Halifax County Unit for 1969-70 over the previous year?

A No. The funds are prorated on a per capita student basis.

Q So, therefore, the Halifax County—the student that lives and goes to school in Halifax County Unit for 1969-70 on a per pupil basis will receive the same amount they received last year and the year before, percentage-wise?

A Correct, sir.

Q Now he also asked you about teachers supplements and what you know about Roanoke Rapids and Weldon teachers supplements, and I will ask you if it isn't true that—that your primary concern with the teachers supplements, and the effect of it, has been heretofore it made it a little—made it more difficult to get teachers for Halifax County Unit because Halifax County had no supplement, and you were in essence competing with supplements given by Virginia Beach, by Tarboro, by Rocky Mount, by Roanoke Rapids, by Weldon, and so forth—hasn't that been the primary effect and concern of you as a member of the Board of Halifax County since you have been on the Board?

A Yes, it has. We have had teachers to renew contracts and under the law they are allowed to resign thirty days prior to school starting. They will renew the contracts with us and once the supplemental situation comes by, they will cancel out, even at the last day sometimes, leaving us within thirty days of school. I think last year they had as many as thirty teachers short thirty days before school starts.

Q And isn't that also—that is, the ability to pay teachers supplements—one of the things that will—that should tend to improve the academic position of the new Scotland Neck School Administrative Unit over its position with the County Unit?

A I'm sure it will put us in a more competitive and better position, yes, sir.

Q Wouldn't you say that the—that the teacher is the primary—that the ability of the teacher is the most important thing, and a student's gaining knowledge, over any and all other factors in education?

A I agree with that, sir.

Q Nobody that teaches a student anything except a teacher, is it?

A No, sir.

Q Now I believe he also asked you about whether or not you considered the—and you took any notes or had any notes, and remember anything about—the course offerings at Tryon, and I believe you said you didn't have any notes and you don't recall the exact courses that were taught up there, isn't that correct?

A That's correct, sir.

Q But it is true, is it not, that our visit up there with the others you mentioned to Tryon, that in addition to the—that probably the first concern was to determine whether the finances that you felt would be available for Scotland Neck could finance a school that academically would be superior to what we have had in the past; that was probably the primary concern and first priority item that was taken up when you went up with the others to Tryon, isn't that correct?

A That was the question asked me: is this enough money to operate our school, and I said the only thing I know to do is let's go riding, and that is what we did.

Q And, of course, the second thing—strike that. And to determine whether or not the Tryon School was in fact of academic equal or superior to what Scotland Neck had had in the past under the County System, those of us who went up there were shown, and requested, and inspected a copy of the curriculum, shown to us by Mr. Dussenbery, the superintendent, isn't that correct?

A That's correct, sir.

Q And isn't it not your general opinion and recollection now, although you cannot recall the details of that curriculum, that that curriculum was superior in general by far over the curriculum that existed in the Scotland Neck School, and which had existed in the Scotland Neck School for many years?

A I recall that. Now, Mr. Josey, he gave us a copy of his curriculum and there were—a copy and I brought it back and gave it to the old principal here, just for comparison, and they had a great number of items on there that we didn't have in our school at that time.

Q And you took this copy of this curriculum of the Tryon School, and you say you talked to and discussed it with, and left it with, Mr. Edwards, is that correct?

A I believe I left it with him. I know I talked to him about it because I went down each one and asked him what he taught and what he didn't teach and checked them off to see—I remember that now, yes, sir.

Q And did you also not compare the numerous categories of academic analysis of the Tryon School with the Halifax County Unit as set forth in the Profile, the book entitled "Profile of Significant Factors in Education in North Carolina, a Ranking of School Administrative Units," dated July 1968, and prepared by the Statistical services of the Department of Public Instruction in Raleigh?

A Yes, sir, I compared them very thoroughly all the way through before we went up there and after we went up there, and all during the Legislature.

Q And based on that comparison, based on the visit and the conversation with Mr. Dussenberry, and with the principal of the school up there, and the assistant principal of the school, and based upon your and the others' observation of the facilities and observation of the records of curriculum, did you not come to the conclusion that Tryon School, operating with some—slightly over eight hundred students, the Tryon School Administrative Unit, and with local funds of somewhat less than what you project Scotland Neck Administrative Unit to have, that the Tryon School Administrative Unit was in fact superior academically and educationally to any school that Halifax County Unit had in operation at that time, and particularly was superior to the Scotland Neck School as operated in the years—for the past number of years; did you not come to that conclusion?

A Yes, sir, I would have to say that. He had a well-administered, well-organized school.

Q And I'll ask you if in fact it wasn't after that very thorough analysis of this thing and comparison, and only then was it determined by Mr. Gregory—was it concluded by Mr. Gregory that he would in fact introduce a bill to establish the Scotland Neck School Administrative Unit?

A That's correct, sir.

Q Now I believe Mr. Bourne also asked you if you consulted with—I believe he asked you if you consulted with the students and I believe you answered that question that you did not, is that correct?

A That's correct, sir.

Q As for as you know did this group, Dr. Pearce and the survey committee on the school survey, Plaintiff's Exhibit 2, did they go around and consult with the students about what they wanted?

A Not to my knowledge, sir.

Q But I believe you did testify that you consulted with the school principal, Mr. Edwards?

A Yes, sir.

Q And I believe, did you not, on your visit to the Tryon School, not only—you did, of course, talk to Mr. Dussenberry, the superintendent?

A Yes, sir.

Q At length?

A Yes, sir.

Q Did you not, you and the others, also go to a separate site, I believe, of the junior high, and discuss at length the situation with the school principal there?

A Yes, sir, we did. We didn't discuss it at length, our problem; we discussed at length the operation there. We discussed at length the situation there.

Q Up there?

A Yes, sir.

Q Right. Mr. Harrison, isn't it true that for the past ten to thirteen years that you have made every effort on that, as a member of the Halifax County School Board, on many different occasions to have the school facilities improved in the Scotland Neck area without success, to have the academic standards of the students in the Scotland Neck—in the Town of Scotland Neck and the Scotland Neck community raised through every type of—in every manner in which you possibly could without regard to race, creed, or color—isn't that true?

A That is true, sir.

MR. JOSEY: I believe that's all.

EXAMINATION BY MR. CREW:

Q Mr. Harrison, there are many white families in Halifax County just as poor or poorer than the Negro families, is it not true?

A I agree with you, sir.

Q And I believe that Halifax County has the second or third highest ratio of Negro population to white population of any County within the one hundred counties, is that not correct?

A I think you are correct, sir.

MR. CREW: That's all.

EXAMINATION BY MR. JOSEY:

Q The administrative problem, Mr. Harrison, of the schools in this County and the difficulties and the uniqueness of the administrative problems is not merely related to the ratio of Negro to white; it also has to do with size and living patterns and population, community centers, such as Eastman, that sort of thing—isn't that correct?

A That's correct. In fact, Dr. J. L. Pearce made the statement in my presence one time: this was the hardest county to figure out a solution to in all one hundred counties in the State of North Carolina. I think he will remember saying that, as many times as he has been down here.

Q From that statement and from any other statements he made at the time you didn't take that to mean that people here in Halifax County were more prejudiced, that is, whites against blacks and blacks against whites, than any other county, did you?

A Oh, no, sir. No, sir, we did not.

Q And in fact haven't you heard him indicate that —strike that. Isn't it true that the people in Halifax County, throughout the County, and particularly in the southeastern section of the County, have had less problems today of race relations than most of the surrounding counties?

MR. BOURNE: I object. He doesn't know all the racial relations in all the surrounding counties.

MR. JOSEY: He doesn't know half the stuff you asked him but I'm going to ask him and let him answer.

If you can, what is your opinion concerning that, Mr. Harrison?

A I would say the race relations, particularly in the southeastern part of Halifax County, have been unusually good. We have tried in every thing that has happened down here, if there were problems, racial problems, to get to the core of them quick and to try to work out a solution satisfactory to all. So, generally speaking, I think I can speak for my own area—I can't tell you what is going on in other areas—I think, generally speaking, in our own area we have had excellent race relationship.

MR. JOSEY: That's all the questions I have.

EXAMINATION BY MR. CREW:

Q One further question. During the time that you were on the School Board I ask you if in your opinion the School Board has not at all times since the time that you were on it until you resigned acted as expeditiously as possible to comply with the law with respect to segregation in keeping with local conditions and still seeking quality education?

A I would have to answer that: yes, sir. They have been most conscientious in trying to do that.

Q And in the three million dollar bond issue we had in 1957 or 1958 I ask you if the County at that time, the County School Unit, did not spend seventy-five or eighty percent of their proceeds which they got for improvement of Negro schools in the County?

A If I remember correctly, out of one million nine hundred eighty thousand dollars, approximately a quarter of a million dollars went into white structures and a hundred fifteen thousand dollars of that was approximately in this junior high school.

Q I ask you if in your opinion that did not have a lot to do with the good race relations that we have had and still have in this County?

MR. BOURNE: Object.

A I personally would think so.

MR. CREW: That's all.

(FURTHER DEPONENT SAITH NOT)

• • • •

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,

Petitioner,

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,

Respondents.

No. 70-187

PATTIE BLACK COTTON, ET AL.,

Petitioners.

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT ON APPEALS FOR THE FOURTH CIRCUIT

INDEX TO APPENDIX

	Page
Certified copy of docket entries	1
Complaint	26
Plaintiff's notice of motion and motion for a preliminary injunction	39
Plaintiff's notice of motion and motion for leave to join an additional party defendant and to file an amended complaint	41
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	43
Answer of all defendants with the exception of Halifax County Board of Education	47

	Page
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	51
Answer of Halifax County Board of Education	56
Notice of hearing by Judge Butler	60
Order that Clerk file amended complaint and U. S. Marshal serve copies upon defendants	61
Amended complaint	62
Answer to amended complaint by all defendants except Halifax County Board of Education	69
Answer of defendant Scotland Neck Board of Education	72
Transcript of hearing on August 21-22, 1969	76
Deposition of Ferd Harrison	96
Deposition of C. M. Moore, Jr.	117
Deposition of Craig Phillips	153
Deposition of W. Henry Overman	218
Deposition of Henry Harrison	365
Deposition of Frank P. Shields	419
Deposition of Aubrey Powell	460
Deposition of F. Boyd Bailey	493
Affidavit of J. L. Pierce	580
Plaintiff's Exhibit #1	585
Plaintiff's Exhibit #2	587
Plaintiff's Exhibit #3	679
Plaintiff's Exhibit #5	681
Plaintiff's Exhibit #7	683
Plaintiff's Exhibit #8	684
Plaintiff's Exhibit #9	686
Plaintiff's Exhibit #10	687
Plaintiff's Exhibit #11	688
Plaintiff's Exhibit #13	727
Plaintiff's Exhibit #14	746
Plaintiff's Exhibit #17	759
Plaintiff's Exhibit #18	761
Order dismissing certain defendants	788
Memorandum opinion of Judge Larkins	790
Amended answer of the Scotland Neck City Board of Education	793

	Page
Motion of defendant Scotland Neck City Board of Education that order be entered modifying temporary injunction	798
Order allowing Scotland Neck City Board of Education to use private donations for expenses and fees incurred	800
Motion of Robert Morgan, Attorney General of North Carolina, to intervene in this action in behalf of the state of North Carolina, as party defendant	801
Order allowing intervention of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina	804
Answer of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina	806
Order allowing motion of Halifax County to be dismissed as to the question of constitutionality of the Act creating Scotland Neck Unit	812
Answer to plaintiff's interrogatories by defendant Halifax County Board of Education	814
Memorandum opinion and order of Judge Larkins	923
Order amending order of 11/24/69	925
Motion for leave to intervene by additional plaintiffs Pattie Black Cotton and Edward M. Francis, public school teachers of Halifax County, and others	926
Transcript of hearing on December 17, 1969	931
Memorandum opinion and order allowing motion to intervene	994
Complaint in intervention	1000
Answer of defendant Scotland Neck City Board of Education to the complaint in intervention	1029
Answer to complaint in intervention by board of county commissioners of Halifax County	1046
Answer of defendant Halifax County Board of Education to the complaint in intervention	1051
Order that motion of defendants that effective date of implementation be delayed until on or about 6/1/70 is allowed; "Proposed Interim Plan" of defendant Halifax County Board of Education be implemented by board no later than 6/1/70	1058
Opinion and order that further implementation of Chapter 31 of the 1969 Session Laws of North Carolina is permanently enjoined	1062

	Page
Judgment that Chapter 31 of the 1969 Session Laws of North Carolina creating Scotland Neck Administrative Unit is declared to be unconstitutional and null and void. Defendants, their respective officers, agents, etc., are permanently enjoined from all further proceedings pursuant to said statute	1085
Amended order, amending order of district court dated 5/18/70	1086
Notice of appeal by Scotland Neck City Board of Education	1087
Notice of appeal to the United States Court of Appeals for the Fourth Circuit by Robert Morgan, Attorney General of North Carolina, North Carolina State Board of Education, and Dr. A. Craig Phillips, State Superintendent of Public Instruction	1088
Motion of defendant Halifax County Board of Education for further amendment to "Proposed Interim Plan"	1089
Plaintiff's response to defendant's motion to amend interim desegregation plan approved May 19, 1970	1092
Defendant Scotland Neck City Board of Education's Answer to motion of Halifax County Board of Education	1094
Plaintiffs' in intervention opposition to defendant's motion to amend interim desegregation plan approved May 19, 1970	1096
Order denying motion of defendants to amend the order of May 19, 1970, with respect to the operation of Scotland Neck School and Brawley School (Judge Larkins)	1098
Affidavit of W. Henry Overman dated September 15, 1970 (Enrollment Statistics)	1100
Affidavit of W. Henry Overman dated December 2, 1970 (Enrollment Statistics)	1102
Opinion and judgment of the United States Court of Appeals for the Fourth Circuit dated March 23, 1971	1104
Opinion of the United States Court of Appeals for the Fourth Circuit in *Wright* v. *Council of the City of Emporia*, March 23, 1971	1119
Order staying the mandate dated April 21, 1971	1151
Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-130	1152
Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-187	1152
Affidavit of W. Henry Overman dated October 14, 1971 (Enrollment Statistics)	1153
Halifax County map indicating the school districts and different schools	1155

FRANK P. SHIELDS

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. KENNEDY:

Q State your name and address, please.
A Frank P. Shields, 311 West 12th Street, Scotland Neck.
Q And what is your occupation?
A I am a fertilizer manufacturer.
Q And are you the chairman of the Scotland Neck City Board of Education?
A Yes.
Q How long have you been chairman?
A Since its inception, which was in April of this year.
Q What public office, if any, did you hold before that?
A I was a member of the Town Board of Commissioners.
Q Have you served on any advisory committee for any school?
A Yes. I have served on the advisory committee of the local school and I have been on the board of trustees of Chowan College.
Q When you said 'local school' you mean the Scotland Neck School?
A Yes, the Scotland Neck School.
Q Not the Brawley School?
A Yes, all the schools in this area.
Q I see. Then the committee was not the advisory committee—served just one school or several schools?
A It served several schools. Under the County—you want me to expand?
Q Yes, sir, please.
A Under the County system we had two high schools here in Scotland Neck, in the Scotland Neck area, and several primary schools that fed into these two high schools, and this advisory committee represented what was known as the Scotland Neck District.

Q Thank you. How long have you been living in Scotland Neck ?

A All my life.

Q How old are you, sir?

A Fifty-one.

Q Were you aware in about July 27, 1968, an official of the Justice Department wrote a letter to the Halifax County Board of Education concerning the desegregation of the Halifax County School System?

A I was aware of it.

Q Did publicity to that effect appear in the newspaper?

A As I recall, it did.

Q Up to that time had the County School System been operating under free choice?

A Yes.

Q After August 1, 1968, and for the opening of schools in September of 1968 was the seventh and eighth grade from the Brawley School transferred as a group to the junior high campus of the Scotland Neck School?

A I understand it was.

Q The Brawley School is a predominantly Negro school?

A Yes.

Q In fact, it's always been a Negro school; have there been any white children there?

A Not to my knowledge.

Q And was the seventh and eighth grade taught at all at the Brawley School during the 1968-69 school year?

A My understanding, it was not. I was not on the advisory committee at that time.

Q Yes. Do you have children in school, sir?

A Yes.

Q At the Scotland Neck School?

A Yes.

Q Are you—do you know what pairing of schools means?

A I have heard the term and I have had it explained to me, so I presume I know.

Q Well, in general, it is reassigning grades between two schools that are located very close together so that

all of the children served by the two schools in one particular grade go to one school and all the children of a different set of grades go to the other school?

A That is my understanding.

Q Did the transfer of the seventh and eighth grades from Brawley to Scotland Neck in approximately September, 1968—was that a preliminary step to a pairing plan of the Scotland Neck School to the Brawley School?

A I don't know.

Q Was there any discussion of this in August, since August 1968, that you were aware of?

A You mean in an official capacity?

Q No, sir, any discussion, official or unofficial?

A Yes, I would say so.

Q Can you tell us about that, please?

MR. JOSEY: Object. Can't you make your question a little more specific.

Q (Mr. Kennedy) I asked him since October—since August 1968, tell us about the first instance when that topic was discussed, after August 1968.

MR. JOSEY: That's too specific.

A That's too specific. I can't tell you.

Q (Mr. Kennedy) Who were the persons?

A I can't tell you that specifically, because discussions of a school have come up at social gatherings; they have come up in our restauraunt over here, at Idle Hour when we're sitting around drinking coffee. Schools have held a predominant part of the topic of conversation. You talk about schools and farming and your golf game. That is about all there is to talk about down here.

Q Did you talk about possible pairing of County schools with Mr. Kitchin Josey?

A I can't recall specificaly ever discussing it with him. The discussion may have taken place in which he and I were at the same function, but I cannot say specifically that I discussed it with him.

Q With Mr. Henry Harrison?

A Well, I am certain that I must have discussed it with Mr. Harrison because he and I travel in the same social circles and he seldom goes along without discussing the school situation.

Q Aren't there about—weren't there last year about slightly under one thousand students at the Scotland Neck Schools, about 950 or a thousand students?

A According to the testimony that I have heard here, yes.

Q Do you have any reason to doubt that testimony?

A No.

Q Did you go to Tryon City with Mr. Josey and Mr. Henry Harrison?

A Yes.

Q And who else was with you?

A Representative Thorne Gregory.

Q. Thorne Gregory. Does Tryon City School System have about 800 or 850 children enrolled?

A That is my understanding.

Q Is that the reason that you picked Tryon to look at, is because it has about the same number of children that Scotland Neck has?

A Yes.

Q Do you know who selected Tryon?

A The suggestion, I heard, came from Mr. Harrison, Henry Lee Harrison.

Q And I take it, your trip to Tryon was sometime in November, is that correct, 1968?

A It was sometime in the fall. I don't know just when, but I would assume it was in November.

Q Did any of your conversations concerning possible pairing of Brawley and Scotland Neck—did anybody indicate that there would be further pairing or that there would be no pairing, or what would happen in the future?

A You mean any official?

Q Anybody, sir. Officially or unofficially.

A I say there was speculation as to whether there may be pairing or not.

Q Were you aware in general that there had been pairing of at least some grades in neighboring school systems?

A I had heard there was.

Q Bertie County has a common border with a part of Halifax County, doesn't it?

A I don't think so. Naw.

Q Did you know that grades eight through twelve had been paired in Bertie County for the last—for the last school year?

A For this—? From what I read in the newspaper.

Q And the pairing occurred between the predominantly white school and the Negro school?

A Yes.

Q Of the children who make up the 950 or a thousand at the Scotland Neck School, do some of them live outside the Town of Scotland Neck?

A Yes.

Q Of the children of school—school-age children who live inside the Town of Scotland Neck, did some of them last year go outside the city to school?

A Yes.

Q Was most all of them to Brawley?

A You're talking about public schools now?

Q Well, let's talk about public schools, first, yes.

A Yes, I would assume they went to Brawley.

Q Of the white children of school age in the Town of Scotland Neck who did not go to Scotland Neck School, do you know or have any idea where they went to school?

A If there were any that were not in the Scotland Neck School, they were in private school as far as I know.

Q Are some of these private schools so-called Enfield Academy?

A Yes. That is one.

Q How old is that school? Is it more than two or three years old?

A I really don't know. I would guess it's about five years old.

Q Do you know of any Negro children at that private school or any other private school in Halifax County?

A No.

Q Or in any private school in any county neighboring Halifax County?

A What?

Q Any Negroes in any private school in a county that is neighboring to Halifax County?

A I don't know any Negro children that's going to any private school.

Q All right, sir. How long were you in Tryon?

A I would say about four hours.

Q Did you talk to the superintendent and the principal?

A Yes, and the assistant principal or building principal I believe.

Q What was the nature of your discussion?

A Well, we talked first about the amount of money, supplemental local money, required to operate that school. We talked in general terms about what type of education he was offering. Mr. Dussenberry showed us a list of the subject matter that was taught in that school. He explained the—I would think you would call it the industrial arts phase of the school. We discussed his opinion as to the academic courses he was giving in view of this failure or success of those that he knew of that had continued their education, how they got along in college or schools of higher education. I think that is generally what we talked about.

Q Did you leave there with any materials, any papers?

A We left with a copy of his budget I'm sure, and I think we left with a copy of a list of courses that he was offering in high school. Well, I know we left with a copy of his budget.

Q Did any of the members of your group make any notes at that time?

A No.

Q Did at any time you or any members of the group that went to Tryon write any letters concerning the Tryon trip?

A Not to my knowledge.

Q Did—before you want to Tryon did you or these other three gentlemen discuss—let me start this question again.

Between August of 1968 and January of 1969, and excluding for a moment the Tryon people, the Tryon superintendent, did you or Mr. Josey or Mr. Harrison

or Mr. Gregory discuss the separate school system with any principal?

A I did not personally. I don't know what the others in the group did. Unless I talked with Dr. Craig Phillips during the dates that you have suggested.

Q Did you or members of this group that we have talked about talk with any school superintendent or assistant superintendent, a member of the superintendent's staff about a special school district for Scotland Neck?

A I did not. Mr. Harrison told me that he had discussed it with Mr. Overman at some time. I don't know what dates, whether that fell within that time or not. I assume it did.

Q During the August-January period do you know of any discussions by yourself or these other three gentlemen with any person involved in education in the State of North Carolina?

A Well, as I said, I think Mr. Overman.

Q Other than Dr. Phillips and the two or three gentlemen in the Tryon system?

A Not to my knowledge.

Q Do you know of any discussions with persons connected with education before August of 1968, concerning a separate school system for Scotland Neck?

A No, I don't know of any specifically.

Q You were here yesterday when Mr. Henry Harrison talked very briefly, I believe, about—was it a bill that was submitted in the Legislature in about 1965, I believe?

MR. JOSEY: Something like that.

Q (Mr. Kennedy) Possibly about another proposal?

A Yes.

Q Sometime around 1966, for a consolidated high school, but outside of possibly those two topics, is it your testimony that you know of no other discussion prior to August 1968 for a separate school system for Scotland Neck, with any persons connected with education?

A Now, ask that question again.

Q Okay. Outside of the 1965 and the 1966 proposal for a consolidated high school, do you know of any dis-

cussion prior to August of 1968 with any educational—any person connected with education concerning a separate school system for Scotland Neck?

A No, none other than involved those two cases that you refer to.

Q Were you aware, then, in the approximately—correction, June of 1968 the Halifax County Board of Education had requested State officials to do a school survey?

A I was aware of it sometime. I had either read it in the paper or had discussed it at some time with somebody. I was aware that there had been a survey made.

Q Were you aware generally of the kinds of recommendations that State officials make in these surveys?

A Yes.

Q That they recommend?

A You mean this specific proposal?

Q Just generally what they recommend.

A No.

Q Did you or anybody else who was—concerning separate schools for Scotland Neck during the August to January period, consider seeking advice from an educational consultant?

A Not that I am aware of. We had no funds and we didn't know where you could get that, where that type of service would be available to us other than for hire basis, and I didn't even know—I don't know now that there is any such service available to a group that is not officially connected with public schools.

Q Just for the purpose of the record, then, do you know of any advice from any professional educator given at any time to any person in the last twelve months concerning a separate school system for Scotland Neck in addition to those you have already told us about?

A No.

Q Now I believe Mr. Gregory introduced the bill sometime in the latter part of January 1969, is that correct?

A I think so.

Q Prior to that time or during the twelve months part of that time had any contact been made with any Negro groups in the Scotland Neck area, Negro churches, Negro voters, associations?

A Contact for what purpose?

Q Well, to discuss a possible separate school system for Scotland Neck.

A Not that I know of.

Q Is there any contact since January of 1969 with any—with any Negro parents concerning separate schools for Scotland Neck?

A Me personally?

Q You, or do you know of any?

A Well, now, either prior to the introduction of this bill or while it was in the House, or while it was in the House or the Senate, there was a—but prior to the vote, the referendum, the bill was discussed in a Parent Teachers Association meeting in which all citizens were invited to attend and in which I was present.

Q Were there Negroes at this meeting?

A Yes.

Q Did any Negro persons ask questions or give their opinions about this school system?

A Yes. I can remember one.

Q Can you tell us about that, please?

A What the question was?

Q Yes, sir.

A The question involved the tax, and this person, as I recall, stated that she didn't want to have to pay any more taxes.

Q Outside of that meeting do you know of any efforts made by persons on behalf of passing the referendum to contact any Negro parents or pupils, P.T.A. groups concerning a separate school system?

A You mean to discuss the separate school system with them?

Q Yes, sir.

A No, nor were there any white groups either.

Q Would your answer to any of the questions that have been put to you today be any different if—if we substitute—take out the word 'Negro groups' and substitute in its place the word 'groups partialy or—or predominately composed of Negroes'?

A Well, I don't remember the specific questions. If she will read them back, I will answer them and change from Negro to what—

Q Well, groups predominantly composed of Negroes.
A I don't know what you are asking.
MR. JOSEY: Object. I object because I think it covers fifty questions, Mr. Kennedy, and I'm not sure, I think he would have to go—what—he would probably answer that question, saying that no, I don't think that does affect it. And I'm not sure—I think I understand what you're trying to say, and I'm not sure he does, but there again I think it is a little bit confusing—the question. That's all.
Q (Mr. Kennedy) Was there any contact made to discuss the possible separate school system made to groups in which Negroes form a part or make up the whole group?
A Other than this P.T.A. meeting?
Q Yes, sir, other than that one.
A I don't know of any.
Q After August of 1968 did you or the other three gentlemen who went to Tryon discuss the interim plan contained in the State survey?
A I had—I had been in groups in which it was, social groups now, not any formal gathering of any type, in which the interim plan had been discussed. Now whether we as a group—and I'm not sure who 'we' is supposed to be.
Q You and Mr. Josey and Mr. Harrison and Mr. Gregory.
A I don't recall discussing it specifically.
Q Was the general feeling in your social discussing about the interim plan in favor of adopting it or against adopting it?
A I would have to say against the interim plan.
Q For what reasons, sir?
A Well, I think anybody dislikes change from what is—they are familiar with, with techniques, the general association, and I don't think anybody could visualize what pairing might mean. I did not, and don't myself know whether it would mean that a student would take in high school—would take part of his courses in one building and then have to be transported to another to take other courses, and that was my reason for opposing it, for certainly not looking forward to it.

Q Do you know of any discussion concerning the interim plan that Mr. Josey or Mr. Henry Harrison or Mr. Gregory had with anybody?

A If in asking your question, your next question is going to be when or where or with who I would have to say: no.

Q Just answer it.

A I feel that they must have discussed it in my presence at sometime, but I can't recall what the circumstances were.

Q Did any of these three gentlemen tell you that they had discussed it with anybody?

MR. JOSEY: Let me object. Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Kennedy) Mr. Shields, in order to clarify the possible confusion about what portion of the interim plan we're talking about, I believe that the interim plan contained in the State survey, on page 15, recommends for the Scotland Neck area that all children in grades ten through twelve shall attend those grades which shall be taught at the Scotland Neck main campus?

A It says what?

Q That all chlidren in the Scotland Neck area in grades ten through twleve shall attend those grades which shall be taught at the Scotland Neck main campus. That is the only place where those grades are going to be taught—children in grades eight through nine in the Scotland Neck District shall be taught at Brawley and children in grades one through seven from the Town of Scotland Neck shall be taught at Brawley. It's that portion of the interim plan that we are referring to now. Was this portion of the interim plan discussed at those meetings that you told us about?

A Mr. Kennedy, my knowledge of the interim plan is very limited because I have never seen the plan myself. I have never had it specifically spelled out to me that I know of before right then. In discussions with people—and I can't recall who or exactly who, or exactly when. I know I have discussed it with Mr. Harrison. —that there was an interim plan and a long-range plan, and to implement the interim plan was basically to util-

ize the buildings that are now in existence by pairing. That is about the extent of my knowledge as to what it was. I have not talked with anybody, Mr. Harrison included, specificaly that I can recall to what—where each grade would be.

Q Okay. And then I take it that your opposition to the interim plan remains the same as you have just told us about a few questions back? . . . Well, do you still have the same opposition to the interim plan?

A Personally, yes, I do because I do not feel that you can pair—that pairing is really the way to do it because I have had three boys that have finished high school and I know that if they do it, after the pairing, after they did it—before the pairing there was a, say, an eleventh grader, a student, might be taking something that—in the same class with a—yeah—a ninth grader, and the defiinition between grades and high school is not as specific as they are in the elementary school. Those children—there, after a class fills up, a specific class fills up, then nobody else in that class can get in it, then he may have to take it a year later than his classmates, or maybe the class is not full and they will reach down and fill it up. For instance, in science—chemistry is taught one year and physics is taught the next. Now a student may for some reason miss out on his physics and have to take it at a later date than it would work out on paper that you would normally expect him to take it, so you have a lot of interchange of students between what might be called grades. Children coming from one home room don't necessarily take all the same courses in the same year. And I don't see how pairing—how you could work it. It looks like to me it would be too much lost time, lost motion, moving from one building to another.

Q Do you know of any persons who have discussed possible pairing between Brawley and Scotland Neck?

A By name?

Q My group or employer or by race.

A Well, as I have said, we have been talking about schools—that is one of the subjects we frequently discuss. The very disruption that has taken place in our schools down here has made it foremost in our minds, that is,

not foremost, but one of the foremost topics. Everything that has ever been tried I suppose in the process, since the Supreme Court decision in 1954—whenever it was—has been discussed at sometime in my presence by people here in Scotland Neck and by people out of Scotland Neck. I'm not trying to evade your answer, but the thing is this is just such a general topic of conversation. It's sort of like asking me when is the last time I discussed the fertilizer business with somebody or how many times I discussed it between August and January. I don't know. I talk about it a lot and I talk about schools a lot.

Q Did—in any of your discussions about schools, say within the last year, was the topic brought up whether students could—would attend schools if the Brawley and Scotland Neck were paired or if any other schools were paired?

A I have heard—ask that question again. Let me make sure I know what you're asking.

(QUESTION READ)

A Well, I have heard people say—and I couldn't say who said it—that they would put their children in private schools if we had a pairing of schools.

Q Is that a general feeling in the community?

A I couldn't say that it was. I have never intended to put any of my children in private school until they had finished their public school education.

Q Have you ever told anybody that the separate school system for Scotland Neck was a better alternative to pairing Brawley with Scotland Neck?

A Yes.

Q Do you believe it?

A Yes.

Q Have you told anybody that a system for Scotland Neck was a better alternative than private school?

A Yes.

Q Who have you told that to?

A I told my wife for one.

Q Have you told any of these other gentlemen, Mr. Gregory, Mr. Josey, or Mr. Henry Harrison?

A That I think the Scotland Neck Administrative Unit as now proposed is a better alternative than a private school?

Q Yes, sir.

A Yes, sir.

Q Have they expressed similar opinion to you?

A Yes, sir.

Q Have other persons in the Scotland Neck community expressed that opinion to you?

A I would say: yes.

Q Are you prepared to name some of those persons?

A Well, there again it would be sort of like pulling names out of a hat because I've discussed the schools so many times I can't specifically recall it, but I am an advocate of public schools. And I preach public schools. I don't preach it either, but I talk in favor of public schools. I am not a crusader in any sense. I could name you people that I feel certain feel as I do, that the Scotland Neck City Administrative Unit is a better alternative than private schools, but I can't say that they specifically said it to me, but I feel that I know them well enough and they have been around me enough that I feel reasonably certain they are for it.

Q Could you name some of these people?

A Mr. Edward Ethridge, who is my plant superintendent; Mr. Alton Bullock, who is a salesman with my organization. Mrs. James Boyd, who is a bookkeeper with my organization.

Q Is she related to either—the Town Clerk?

A She is the wife of the Town Clerk.

Q Is that Mr. Boyd, Jr., or Sr.?

A Junior. Do you want others?

Q Please.

A Well, let me sort of go down the street.

Q Excuse me. Are you going to go down the street and name practically everybody on Main Street in Town; if you are we don't need the names.

A Turn the question around the other way; if you asked me to name the people who I thought favored a private school over the Scotland Neck City Administrative Unit, I would say that it would compose less than ten.

Q And of the other adults in Scotland Neck do I take it that they are in favor, like you are, of the unit as a better alternative than private schools?

A My opinion is that they are.

Q Is your view that we have been talking about shared by other members of the Scotland Neck City Board?

A In preference of the Scotland Neck City Administrative Unit over any type of private education, yes.

* * * *

Q I believe that you were present at part or all of Mr. Henry Overman's deposition last week, is that right?

A A half a day.

Q And you were here yesterday when Mr. Henry Harrison was deposed?

A Yes.

Q You have heard considerable discussion about the Governor's Commission Study Report of the Public Schools; you have heard us discussing it?

A Yes. You're talking about the Governor's—yes.

Q In fact, you're looking at a copy right now, aren't you, sir?

A I presume that is what it is. That is the first time I have seen one, but I will put my glasses on. Yes, that is what it is.

Q If I were to tell you that one of the recommendations in this Governor's Study Commission Report was the merger of the administrative units and the merger of schools within the administrative units, would you know or do you know of any educators who would disagree with that conclusion or recommendation?

A I don't know of any educators. I have heard some—unless you call a teacher an educator. I have heard teachers say that they didn't see that we derived any particular benefit from being in an eleven thousand population administrative unit. And my personal opinion is that it has hurt us.

Q What is the race of those teachers?

A White.

Q Are there any Negroes?

A I can't recall having discussed it with a Negro teacher.

Q After August of 1968 or since August of 1968 do you know of any inquiries made to determine what plans for future school operations the Halifax County Board of Education was making or had made?

A Ask that question again.

Q I will ask it in a slightly different fashion. Since August of 1968 do you know of any inquiries made of the Halifax County School Board or its staff concerning possible reorganization or curriculum improvements or changes that would bring possible educational benefits to any of the schools in the Halifax County Unit?

A No.

Q Did you or Mr. Josey or Mr. Harrison or Mr. Gregory in the past year endeavor to find out whether the Halifax County School Board was planning to make any school improvements in the Halifax County Schools?

A Did you name Mr. Harrison in that group?

Q Yes, sir.

A Since—

Q August.

A August. I feel certain Mr. Harrison must have. He was on the County School Board.

Q Have you heard or seen publicity to the effect that Halifax County is planning to select a site and begin construction on a consolidated high school for the northwestern part of the County?

A Yes, I am very well aware of that. It's going up in the other end of the County.

Q Did you know that a consolidated high school for that part of the County was a part of the long-range plan made by the State survey?

A I assumed as much in that I had heard that they had recommended two large consolidated high schools, one in the upper end of the County and one in the lower end of the County, and this I assumed to be the one in the upper end of the County away from Scotland Neck.

Q If a consolidated high school as planned in the long-range plan in the Survey could be built in the Scotland Neck area of the County, would that be an educational improvement for the children in the Scotland Neck area?

A At the time—at such time at which it was built, yes.

MR. KENNEDY: I'm not sure that you understand the question.

MR. JOSEY: I think he hit it right on the head.

Q (Mr. Kennedy) I'm talking about the Survey that came out in December 1968 that the long-range plan recommended two consolidated high schools, as you said.

A Un-hunh.

Q And if we—if that plan could be and would be adopted would that—would that provide educational benefits for the children of the Scotland Neck-Halifax Unit?

A I would have to say: yes.

Q Would the construction and operation of two consolidated high schools as planned in the long-range plan of the Survey provide educational benefits for the children of the Halifax County Unit?

A At the time that it was done.

Q They are not done yet, sir; at the time they would be done?

A Assuming that they would be done?

Q Yes, sir, assuming.

A Yes, I would think so.

Q A few questions ago you told us about some social gatherings at which the schools were discussed. Were there any Negroes at these social gatherings?

A As guests?

Q Yes, as guests.

A No.

Q Were there any Negroes there in any other capacity?

A Well, I suppose that it was possible that they could have been. I can't—I couldn't say specifically who it might be.

Q What capacity would this have been?

A Well, I know it is hard for you to understand, but, for instance, we had a big wedding out here on the edge of Town. Maybe the biggest wedding we have ever had here in Scotland Neck. And there was a Negro woman who came in; she was hired—I suppose you could call her as a servant, but she advised the family on—I would

really consider her more or less a caterer or certainly in a consultant capacity to preparation, display of food, and type of service to use, and that sort of thing.

Q Did—after August 1968 was there any discussion by you or other persons in favor of the proposed Scotland Neck School System concerning the effect of such school system on desegregation of the County schools?

A Well, possibly so. I—I think that the people in Scotland Neck, both Negro and white, are moderates. In my talking to people, they have felt that integration was inevitable. I would have to say that the thinking of—I don't like progressive. That sounds—but the people that really consider problems ahead of their actual taking place have felt like we ought to be making some preparation for the two races attending the same school. And the—I have personally felt that when you involve something as large as this County, that there is going to be a lot of rough road ahead. Now we have not had any demonstrations here; we have not had any boycotts here; as far as I know there has been no friction between the two races, but I could not say that about any other community in Halifax County. And I personally have felt that if folks right down here could go ahead and integrate and get it over with and get on back to education, that it would be effort well spent. I was aware of, and was in agreement with, Mr. Harrison when he asked for an integrated high school down here. I felt—and I wasn't by myself; there were others that felt, well, in this way we can go ahead; we will be right; we can go ahead with education. So I am sure that in our discussions—and I felt like this was—we had tried every method that I knew of to try, within the County, to try to go ahead and in this end of the County—I'm not talking about independently—but for us to go ahead and move on into integration. And I felt like this setting up this school system would bring us in compliance with the law and we could go ahead without interruption toward education. So I am sure that in that—certainly, in my talking—that that was what was prompting my talking about the integration or the effect of desegregation—that it might have in this area.

Q Well, you mentioned about the middle of your answer that there possibly were other ways to desegregate the school in this area of the County. Can you tell us what possible other ways of desegregating in the County were discussed?

A Well, I suppose that the—that the chief discussion has been in the area of having constructed here a new integrated high school. I certainly felt back when we tried to include the four townships that we were at least restricting the influence in this area where I knew the temperament of the people, and I felt like we could harmoniously come to some sort of solution. I don't know that that facet was ever discussed, but I don't reckon this idea—that I particularly came up with this idea myself. Most of my ideas I get from other people anyhow.

Q This idea for a high school that you just told us about, was that the proposed consolidated high school that was proposed about 1966?

A Yes, somewhere in that area.

Q Were you present when Mr. Josey and I asked Mr. Overman about this, questions about this proposed consolidated high school?

A No.

Q Within the last two weeks have you discussed with anybody the—what was actually proposed at that time for a consolidated high school?

A No.

Q Were you a part of the group that went to Raleigh to talk about the proposed consolidated high school?

A No.

Q Mr. Henry Harrison, I believe, and Mr. Overman were among those who went, is that right?

A I don't know who went. Mr. Harrison and I, along with—I'm sure there must have been some others, not again in any sort of formal meeting, but just maybe over a cup of coffee, had discussed the possibility of a consolidated integrated high school here in this area. And I can remember specifically speaking out in defense of it at a couple of bridge clubs I belong to.

Q Prior to January of 1969 were there any rough proposals or general proposals concerning where the supplementary tax that the Scotland Neck Unit could raise would be spent?

A Mr. Kennedy, I did not know that there was such —such a thing was posed under the law until it was mentioned in the Legislature by some opponents to the bill. I did not know that you could have a special school tax district within, and not composed entirely of, an administrative unit.

Q I don't believe that is responsive to my question, but let's pursue the topic.

MR. JOSEY: What was your question, Mr. Kennedy?

MR. KENNEDY: The question was: prior to January 1969 was there any rough or proposed budget to provide for spending of the supplementary tax which would be raised in the Scotland Neck Unit.

THE WITNESS: Is that the question he asked me?

(QUESTION READ)

Q (Mr. Kennedy) Do you know anybody else who knew of the possibility of a special taxing district before the Scotland Neck bill was introduced in the Legislature?

A Before it was introduced in the Legislature?

Q Yes, sir.

A At any time before it was introduced in the Legislature?

Q Yes, sir.

A Yes, I would say it was general knowledge.

Q Do you know of anybody who considered setting up a special taxing district as a possible alternative to a separate administrative unit to Scotland Neck?

A No. As I have said, I didn't even know that such a thing was possible until I heard it in the Legislature.

Q Do you know of any proposal for a budget drawn before January of 1969 to spend the supplemental tax that would be raised by the creation of the Scotland Neck Unit?

A Are you talking about specifically how it would be spent?

Q Yes, sir.

A No.

Q I believe you were here yesterday when Mr. Henry Harrison stated that approximately $25,000.00 would be raised by this budget by the supplemental tax. Did you have any general idea prior to January 1969 where the money would be spent?

A If you're talking about my personal opinion, I can tell you what my personal opinion was and still is.

Q Please give it to us.

A I felt that such of these funds as could be spent, when and if they were needed, should be spent either for supplementing teachers' salaries or for broadening our faculty, that is, adding faculty members paid totally by local funds. I have felt that at least some of this money should be set aside for enrichment of the capital outlay fund that we get from the County because our physical plant is—is antiquated and inadequate and certainly something is going to have to be done in the future about the physical plant of the Scotland Neck School. We have—the largest building we have was built in 1903. The second largest building we have was built in the 1920's. There is a gymnasium and—well, vo-ag department and home economics department there that were built with W.P.A. funds. Since that time there's only been eight classrooms built in Scotland Neck School.

Q What investigation, if any, did you make in order to get an idea of where the money should be spent?

A I didn't make any investigation. I—in my mind I simply stated if I had some extra money to apply to the school, how would I apply it, where, in what areas would I feel like it should be spent.

Q Do you know anybody who made an investigation to determine where the money could be best spent?

A No, I don't, because we didn't have the money. We didn't have the authority to raise the money, and I personally felt that it would be immature to make any sort of investigation as to how to spend the money until you were at least reasonably certain that you were going to have it.

Q Do you now, at this day, know where you are going to spend the supplemental tax?

A No, not in its entirety.

Q How much of it and where do you know?

A I can only tell you specifically $1800.00, which will be spent to supplement the superintendent's salary, and I believe that we agreed to pay the superintendent travel expense. And I am—I cannot say for certain whether we have specifically allotted the travel money, that is so many dollars and cents. We have agreed on a rate in which to pay his travel but—I know that.

Q There's been a lot of discussion about supplements for teachers. Are your teachers going to have supplements?

A Definitely not this first year.

Q In addition to the approximately $25,000.00 from the supplemental tax, what other funds will Scotland Neck Unit receive to operate the schools? Let me exclude for a moment State funds and federal funds and your base proportionate share of County revenues.

A I know of no other, other than the anticipated income from tuition. And I understand that in school finance you are allowed to charge certain fees for books and specific courses, like typing, which I couldn't even approximate, but every school I know has a little—

Q Is it a—a fee schedule, sir?

A Yes. And a small amount of individual funds for that school that can be spent in certain areas.

Q Just in general will the fees for the coming year vary significantly from the fees that were charged last year?

A We have not discussed fees. My thinking is that they would be the same.

Q How much money do you anticipate coming in from tuition?

A On our ten dollar—I think Mr. Powell pointed out we required a ten-dollar registration fee, which would come off the tuition. We have received $1850.00, which would indicate that there were a hundred eighty-five families sending children into this Unit. So I would say a minimum of eighteen thousand five hundred dollars, if it were an average of a hundred fifty dollars—you can figure it out.

Q Would it be possible for persons living outside the Town to come in to the Town schools up to the time you open schools in late August?

A Well, here, again, we have not set a—a deadline. We have indicated to the people that they must make payment by August the first. You see at the time we open school we must know what our school population is going to be so that we can make some sort of—we can arrive at our teacher allotment from the County.

Q This fee that must be paid by August the first, you're not talking about the ten-dolar fee; you're talking about the full tuition?

A No, we are talking about half of the tuition, less ten dollars.

Q I believe Mr. Overman, the other day, indicated that his best figures were 1,029 students, and indicated that they wanted to go to the Scotland Neck Schools for the coming year. Do you have any figures that are or appear at the moment any different from Mr. Overman's figures?

A I would believe that a thousand twenty-nine is right. I think Mr. Baily told me that that was right.

Q Now Mr. Powell in his presentation earlier this morning testified that there were some approximately 380 children living outside the Town who would probably or possibly come to school at Scotland Neck this fall. Do you agree with his figures?

A I am not sure of the figure, but I think he is a little high.

Q About how much, sir?

A I would guess 75 to—I think it's in the neighborhood of 300 total.

Q And of the 300 children how many of those are Negroes?

A I don't know. I can simply say that the majority of them are white.

Q Mr. Powell thought that there would be some forty—I believe he said some forty Negroes in this group. Do you have any reason to doubt those—that figure?

A No, I don't. I really just don't know what the racial breakdown is.

Q Does Mr. Bailey know?

A Mr. Bailey should know. I—at the time the freedom of choice form was sent out it was required—not required, but there was a space on there for the child

to put his race. We took those freedom of choice forms and transferred them to a small card because we had to give the freedom of choice forms back to Mr. Overman. Where that information was—was on the freedom of choice form, and it was in most cases, then it was put on a card. If it was not, it was supposed to have been put on a card, and in looking through the cards I would say that most of them do have the race, so he should be able to tell you fairly close, and he may be able to tell you exactly.

Q Do you know whether the Scotland Neck Unit will receive any share of A.B.C. profits?

A I understand that it will receive—that the A.B.C. funds; those that are allocated for education, are allocated back to the administrative units in the County on a per capita basis, and I understand that we will receive our per capital share, and—I mean— well, I shouldn't use the word per capita. I should say school census or average daily attendance. It is based on the number of children that are attending school in this area and not the population that lives in that area.

Q Do you know how much money that will be?

A No, I don't recall, although it has been estimated.

Q Does the Board have a fiscal officer?

A Are you asking do we have a treasurer?

Q Somebody who specializes in money matters for the School Unit?

A Well, the City Administrative Unit has hired a woman who is, I understand, to do bookkeeping and stenographic work, and she is the treasurer of the administrative unit. We have not—we do not have a fiscal expert, if that's what you're talking about.

Q Well, does this lady have more knowledge of income, say, than you or Mr—than you do?

A I doubt if she would have as much because I understand that she hasn't gone to work yet.

Q Who is she?

A Mrs. Craig Perry I believe.

Q You mentioned that—that you had a discussion with Dr. Craig Phillips, the State Superintendent of Public Instruction?

A Yes—no, State Superintendent of Schools.

Q And that was sometime in January of this year?
A I would guess that is right.
Q Right before the bill was introduced?
A Before it was introduced, yes.
Q Who was at the meeting with you?
A Well, I met with Dr. Phillips twice. Once after the enactment of the law, but as I recall at that first meeting there was Mr. Josey, Mr. Harrison, Henry Lee Harrison, myself, and I feel like there was a fourth one, but I can't remember now who it was. The Mayor.
Q Did Dr. Phillips in general express favor or opposition to the proposed bill in your meeting with him before the bill was introduced?
A Dr. Phillips said he was going to oppose the bill in the Legislature.
Q Okay. Did Dr. Phillips express any observations on the desegregation of the County schools which would be occasioned by the creation of the Scotland Neck Unit?
A Are you asking did he discuss what effect this would have on desegregation?
Q Yes, sir.
A In this area?
Q Yes, sir.
A Not that I recall.
Q Who was at your second meeting with Dr. Phillips?
A Oh, me! Let's see. Mr. Overman and Mr. Currin, and me, and I believe Mr. Harrison was there.
Q Where was this meeting?
A In Raleigh.
Q What was the purpose of it?
A The purpose of the meeting was that the bill read that upon ratification by people that the Scotland Neck Unit would become into existence. Mr. Overman wanted clarification as to whether the County should stop functioning immediately or how this transition should take place, that is, the transition from being administered by the County Unit and becoming a City Administrative Unit, and we talked with Dr. Phillips and Mr. A. C. Davis, and at that meeting we agreed that the County would go ahead and operate the school just for the remainder of this school year and any summer programs

since the funds were already allocated, would be carried on by the County this summer.

Q Is Mr. A. C. Davis a controller for the State Board of Education?

A Yes.

Q Was that meeting held after the bill was voted on by the people?

A Yes.

Q Is your unit going to receive any federal school money this year?

A It is my understanding that we will. As a matter of fact, we—I believe we are going to have some money that we are going to use that is federal money for—I believe they call it developmental reading now.

Q To go for a teacher?

A Yes.

Q How many teachers?

A Well, let me say this: my understanding is that you become eligible for certain funds under these federal programs and you write up what is called a project and then they allocate it, if the project is approved then they allocate the funds to implement the project. Now I really don't know how many teachers would be involved. I simply know that Mr. Bailey has said that he is in the process of drawing up a project and the Board has agreed to use these funds for developmental reading program and in the lunchroom program for children that are not able, I suppose, to pay for their lunch.

Q Do you know how many children that are in this category that would qualify them for federal school money?

A No.

Q Does Mr. Bailey know?

A I'm not certain. The final separation from the County, that is, in its finest details, hasn't taken place yet. There are certain information that we must have in this unit, for instance, how many of these children are underprivileged or whatever you call them. That is a matter of County record, and I understand those children are listed by name and consequently you would know who they were and Mr. Overman would know, and he could tell Mr. Bailey and Mr. Bailey would ultimately know, but whether he knows now I can't tell you.

Q Prior to January 1969 did you know that the bill for the Scotland Neck Unit defined boundary lines which excluded the junior high campus?

A Yes.

Q Do you know why that was not included within the bill?

A Because it is outside of the city limits.

Q But it is right adjacent to the city limits—isn't that right?

A That is true.

Q Was there any discussion to drawing the school boundary lines so as to include the junior high campus?

A There may have been, and I suppose—yeah, there was some discussion as to drawing the lines including it.

Q Why was the line drawn in the bill so as to exclude the junior high campus?

A Well, we had to draw a line somewhere to define the administrative unit, and the most logical line was the Town lines, that is, the city limits.

Q But isn't it true that you would have needed both the classrooms and the number of mobile classrooms at the junior high campus in order to house approximately one thousand students which you expected?

A Yes, it is true that we needed that much space. It is not true that we needed that particular location, but, of course, it was nice to get it, to have it.

Q Prior to January 1969 were there any written or unwritten agreements with County School Board officials to acquire that junior high campus for the new Scotland Neck Unit?

A Not to my knowledge.

Q Were there any other sites or school facilities outside of the junior high campus which the Scotland Neck Unit may have used?

A Well, the possibility of what to do with these students, naturally, that had been housed over there—what we would do with them had come up, and I had discussed it with Mr. Harrison. You have heard mention that they trade and industries course.

Q Yes, sir.

A They rented a building that was right across from our office. We felt if we couldn't get the junior high

school, that we could move the vo-ag department in that building. We could lease that building and move it into that building. There is a residence constructed on the school campus that is now being rented by the coach. We felt that we could take that house and move the home ec department into that residence and then we could take the room that was devoted to shops and classrooms and kitchens, and what not, and make additional classroom space available without it terribly disrupting the school children by having to do a lot of transporting and that sort of thing. And then across the street from the school, behind the houses on Church Street, there is a lot of open land back there that we felt we might could lease or that we possibly could find some area close by, within walking distance, that we could lease and put mobile classrooms if we had to.

Q Since August of 1968 have you or Mr. Josey or Mr. Harrison or Mr. Gregory, have you had any discussion with people who indicated interest in a separate school system for the Littleton-Lake Gaston area of Halifax County?

A I could not say. I haven't.

Q Do you know of anybody—any of these other three gentlemen?

A I don't know.

Q Do you know of anybody else since August that's had a discussion with people who were interested in a school district for Littleton-Lake Gaston?

A Well, I would be speculating.

MR. JOSEY: Well, I object. He asked if you know anybody. I object. If you know somebody—now if you know the answer to the question, I suggest you answer it. If you don't know, say you don't know and let it go at that.

A Well, I don't know of anybody.

Q (Mr. Kennedy) Have you heard of any discussions?

A Well, let me say that at sometime I heard of the Littleton-Lake Gaston proposal, prior to the introduction of that bill into the Legislature. Now I can't tell you—and it was bound to have been since August 1968.

Q Who did you hear about that from?

A There, again, I couldn't tell you specifically. It was just street talk I reckon. I would suppose Mr. Harrison may have mentioned it to me, and others.

Q At the election on April 8, 1968, for the referendum here in Scotland Neck were there people at tables outside the polling places?

A Yes.

Q Were these persons, some of them, working on behalf of approving the referendum?

A I would assume so. They were not passing out any literature or—or as far as I know voicing any opinion, but knowing the people, I felt that they were for. There were some of them who were for.

Q Who were some of those people, sir?

A Well, let's see. I didn't have any idea that I was going to have to tell you who was out there under that tent. They rotated. Actually, what those people were doing out there was keeping a list of who came to vote, which is what we do in every election down here, and where people had not voted they are called and reminded to vote.

MR. JOSEY: Show him that picture.

Q (Mr. Kennedy) Did you organize those people?

A No.

Q Who did?

A I don't know. I would say—well, I just don't know who organized them because I didn't organize them. I knew that such a group was going to be there.

Q How did you know that?

A Well, here again, talking in the coffee shop, I just heard, or had asked, or somebody, if they were going to have people at the polls to encourage a big vote, to keep track of who was going there, and to encourage a big vote.

Q You were a Town Commissioner at that time, weren't you?

A Yes.

Q And under the Scotland Neck statute, the Town Commissioners have to administer or run the election, is that right?

A In the sense that they—I am no attorney and I don't know what the law is. I simply know what trans-

pires at an election. We appoint a registrar; we set out in the minutes when the books will be open and at what hours, and at what location. We elect the judges, and as far as I know that's—that's what we do. I don't know what we are required to do under the law.

Q I show you this newspaper clipping which appears to be from the Scotland Neck COMMONWEALTH, dated April 11, 1969, which has a photograph of some human beings, and see if you can identify any of those persons, in addition to the Mayor.

A Well, I can—I would assume that these two ladies here, the one I'm looking at profile and the other one I'm looking at—I would say mostly from a rear profile view—one of them appears to be Mrs. Henry Lee Harrison. The other appears to be Mrs. Kermit Veech.

Q Are they Scotland Neck citizens?

A Yes. Mrs. Kermit Veech and Mrs. Harrison are Scotland Neck citizens.

Q There appear to be two ladies sitting down in this picture. Is Mrs. Harrison the one on the left or the right?

A She is the one on the right. Now I cannot recognize the other people in that photograph. There is one man there, apparently a pedestrian.

Q Who do you think that is, Mr. Shields? The man in the hat?

A Well, he said it was Ennis Bryant?

Q Can you identify him as Ennis Bryant?

A I canot identify him as Ennis Bryant, and then there are some Negroes in the background that are too far away for me to recognize, that are also at a table at the polling place.

Q Yes, sir. Do you know who provided the tables?

A Well, let's see. I think I do happen to know who provided at least one table, because I was there when the poll closed and asked if I could take the table home and Mr. James Boyd said it was his card table.

Q Again, Junior or Senior?

A Junior, the Town Clerk.

Q Referring you again to the same photograph, what location appears in the photograph. This appears to be

the front of a polling place. Do you know where that polling place is?

A It appears to be the Town Hall.

Q Was it a polling place on the April 8 election?

A That was a polling place.

Q Was that the only one?

A That was the only one.

Q Was there a telephone campaign to get people out to vote?

A Yes.

Q Do you know people who worked on that?

A Those people who sat—who were sitting right there at—I would say from three o'clock in the afternoon on.

Q Do you know who organized those people?

A No, I don't.

Q Was there a car service for people to come to the polls?

A Yes, there was.

Q Do you know who organized that?

A I heard that Joe Lewis Daniels, a Negro, had organized it for—had organized one, and—

Q Would you like to finish your answer?

A And I know that there was one organized for the whites. I do not know who organized it.

Q Were you at the polls that day?

A Yes, I was at the polls that day. I voted that day. But—and I can say this: my son took a shift but I don't know who called him. Somebody called him on the phone and asked him if he would provide—would he serve as a driver, and he did, but I did not ask him who called him. I don't remember who called him if I did ask him.

Q Which of your sons did that?

A Which?

Q Yes, sir.

A Well, I have five and I only have two that don't drive. It was one of the oldest three, and I believe it was Clay.

Q For the record, what are the names of the other two of your sons who do drive?

A The oldest one Frank, and he was in school, so I feel certain it was not he. And Charlie, and he was in

school, and I reckon it must have been—it was bound to have been Clay because the two older boys are in college. Clay was in high school last year.

Q From August, or during the period of August 1968 to January 1969, did the—persons like yourself who are interested in exploring the possibility of a separate school system retain a lawyer?

A You mean did we employ a lawyer?

Q Yes, sir.

A No. Now what were the dates again?

Q August 1968 to January 1969?

A No.

Q From January 1969 to April 8, 1969, did persons in favor of the Scotland Neck School Unit retain a lawyer?

A Employ a lawyer?

Q Employ one, yes, sir.

A No.

Q But since April 8, 1969, the Scotland Neck Board has retained a lawyer, who is Mr. Josey, is that right?

A Yes.

Q Well, prior to April 8, 1969, did persons in favor of the bill secure professional legal advice on the creation of the separate unit for Scotland Neck?

A Well, it's already been brought out in previous testimony that I have heard that Mr. Josey went with us, and I brought it out myself and testified that he went with us to Tryon. And I suppose he gave us some legal advice. I don't remember him having—saying: now, let's be sure and do this and let's be sure and don't do that.

Q Did Mr. Josey prepare, prior to April 8, 1969, any legal opinions, do legal research for persons on behalf of the Scotland Neck School System?

A Not to my knowledge.

Q Do you know if anyone paid Mr. Josey's expenses for his trip to Tryon?

A No. As I recall, Mr. Josey and Mr. Harrison and I split the gas bill, as I—I think it was something like—well, I don't remember how much it was. I was amazed an airplane burnt that much gasoline.

Q That was Mr. Gregory's airplane to Tryon?

A Yes. Yes.

Q How about your trip to—you gentlemen took to Raleigh to talk to Dr. Phillips?

A Well, it's an old southern custom down here, if I ride with somebody, you buy his meal. I suppose whoever drove the others—other fellows paid for his meal. That's sort of the way you share expenses. Now, I don't even remember whose automobile we went in.

Q Do you know then of anyone who might have paid Mr. Josey for legal services on behalf of the Scotland Neck System prior to April 8, 1969?

A No.

Q Did Mr. Josey at any time prior to April 8, 1969, indicate to you or anyone else that he was acting as the attorney for the group that was seeking a special school system?

A Well, Mr. Josey didn't say: "Look, boys, I'm your attorney." But it is sort of like having a doctor in the crowd, when somebody gets hurt, you look to him for what advice he might have—can give you. I was not legally qualified; Mr. Harrison has no legal training; and as far as I know Mr. Gregory has no legal training, but—

Q Do you recall how Mr. Josey was introduced, say, to Dr. Phillips at your meeting in January of 1969? Was he introduced as attorney for the group?

A As I recall, we introduced ourselves, and I think at sometime in that introduction—I mean sometime while we were there, Dr. Phillips became aware that Mr. Josey was an attorney, but I can't say for sure that it ever came out, but I would have to assume that he might have known he was an attorney.

Q Do you know if Mr. Josey ever indicated to anybody prior to April 8, 1969, that he was the attorney for citizens working on behalf of a separate school system for Scotland Neck?

A No.

Q The 185 families that you indicated paid their ten-dollar fee and who live outside the Town, do you know how many of those are white and how many Negroes?

A No. I just know the majority of them are white.

Q Do you know where their name and address is kept; who keeps it?

A Mr. Bailey should have the list.

Q Prior to your trip to Tryon did you consider going to the school system in Winston-Salem?

A No.

Q Greensboro?

A No.

Q Charlotte?

A No, sir.

Q Raleigh?

A No, sir.

Q Durham?

A No, sir.

Q Greenville?

A No.

Q Any other system than Tryon?

A No.

Q Is there any particular reason why?

A Yes, there was from my standpoint. I suppose that my activity in this group was as the 'Doubting Thomas', if there was such a thing. I felt that if—that we must be assured that the thing was financially feasible and workable, and in a discussion, I believe this was—was at the Idle Hour, and I said—well, Mr. Harrison said: suppose we go to see a unit that will be smaller than this one; if it is smaller than this one, do you think it will work if the money works out. I said: yes, the smaller it is, to me it would appear that if we can find one the size this one will be or smaller, that we will certainly be on safe ground, investigating from a financial standpoint.

Q Is Mr. Josey your personal lawyer?

A I have never employed Mr. Josey to do anything.

Q Has Mr. Henry Harrison?

A Beg your pardon.

Q Do you know if Mr. Henry Harrison has employed Mr. Josey to do legal work for him?

A No, I don't.

Q Do you know whether Mr. Thorne Gregory has?

A No, I don't.

Q Prior to April 8, 1969, did Mr. Josey caution any member of the group who was in favor of the Scotland

Neck School System as to what to say and as to what not to say?

MR. JOSEY: What was that question?

Q (Mr. Kennedy) Prior to April 8, 1969, did Mr. Josey caution you or any of the other gentlemen working in behalf of the separate school system as to what to say or what not to say?

A As I recall, the only conversation that—and there may have been more than one regarding anything that was to be said or wasn't to be said—involved appearing before the State Legislative Committee in which he and Mr. Harrison and I, I know, were present. I don't know who else. And we sort of decided who was going to say—who was going to make any kind of presentation. We knew that it was a hearing and that somebody from this area would be allowed to speak before the legislative group, and as I recall at that time we decided that Mr. Josey would be the spokesman.

Q Did anybody else, in addition to Mr. Josey, speak on behalf of the Scotland Neck citizens?

A Yes. I understand—yes, Mr. Harrison spoke on behalf of it.

Q At the same time or before the same legislative committee?

A As I recall, Mr. Harrison, Mr. Josey spoke before the House Committee and I believe Mr. Harrison spoke there, too. I know Mr. Harrison spoke before the Senate hearing and Mr. Josey spoke there also, but I couldn't be positive that Mr. Harrison spoke before the House Committee.

MR. KENNEDY: Your cross-examination.

EXAMINATION BY MR. JOSEY:

Q Now, getting back to this business of my participation in this thing as a lawyer and as an individual that Mr. Kennedy asked you about, and particularly in regards to the meeting we had with Dr. Phillips, isn't it your—don't you recall that I was the only one that even knew Dr. Phillips before we went up there, had ever met him or seen him?

A Yes. I had forgotten that. Dr. Phillips was from Greensboro.

Q And, of course, he had been with the Richardson Foundation in Greensboro, isn't that correct, before he was elected?

A Yes.

Q Of course, I lived in Greensboro for ten or twelve years, isn't that correct?

A Yes, sir.

Q So Dr. Phillips obviously knew I was a lawyer before I ever got there, isn't that correct?

A Yes.

Q Now, isn't it true, also, that in spite of the fact Dr. Phillips said that he would have to oppose us and would in fact oppose us, oppose a bill if it were introduced in the Legislature, isn't it true that you and the others there asked him to give us any other solution that he saw to raising the academic standards of the children of Scotland Neck?

A Yes.

Q In any immediate future or any solution that he had that he felt could possibly be attained?

A Yes, that's right.

Q What solution, if any, did he say he had for, that he could be reasonably assured that could be implemented?

A I can't recall he said he had any. He mentioned that if he could wave a magic wand and get the money and build a building, and put us up a nice new building, he could solve the problem.

Q Now, concerning this tax district in lieu of a separate administrative unit for Scotland Neck, do you not recall that the first time any person mentioned it—even Dr. Phillips did not mention that until the first hearing before the House Committee there in Raleigh, wasn't that the first time that you heard about it?

A The first time I recall hearing about it was Representative Penny of Durham speaking in opposition to the bill on the House floor. I don't even think it was before the legislative committee.

Q Now, I believe Mr. Kennedy asked you whether or not any professional educators were in any way con-

sulted—strike that. I believe Mr. Kennedy asked you if you knew of any professional educators who were in disagreement with this rather large document known as the Report of the Governor's Study Commission on the Public School System of North Carolina, and I will ask you if in fact there weren't a number of—several school superintendents, including Mr. Dussenberry, and including one of the representatives who spoke in favor of the Scotland Neck School Bill on the floor of the House who was a school superintendent for thirty years or so, and others, including Mr. Joe Talley who's been the—a school superintendent of Roanoke Rapids for a number of years, and a number of other professional school people who you know to be opposed to certain portions of this Governor's Study Commission which, among other things, says that they will do away eventually with even county lines to consolidate schools?

A Yes.

Q And do you not recall that Mr. Dussenberry told you and the others with you that in fact Dr. Carroll's office, or Dr. Phillips' office, one or the other—it must have been Dr. Carroll's office because Dr. Phillips had not taken office at that time—the former State Superintendent of Schools had been trying to consolidate his little school with the surrounding county for several years and he and the other citizens of that community, and the other professional educators in his system had violently opposed that consolidation?

A Yes, I recall that.

Q And, of course, isn't it true, Mr. Shields, too, that that consolidation and the opposition that Mr. Dussenberry had to the consolidation of his schools with the surrounding county had nothing to do with integration or race, did it?

A No.

Q And I believe that you, in answer to Mr. Kennedy's question concerning whether or not you made any investigation regarding the spending of the supplementary funds that the Scotland Neck School Administrative Unit might have prior to April 8, 1969, I will ask you in that connection if you, particularly you and the others that went to

Tryon in either November or early December—whenever the trip was—did not discuss that particular point with Mr. Dussenberry, about what he did with his supplementary funds, and at least discussed supplementary salaries for teachers in general?

A Yes.

Q So, to that extent, you did have that much knowledge from a professional educator as to what possible expenditures, supplementary funds, were used for in a school administrative unit similarly organized in size as the Scotland Neck School System, isn't that correct?

A Yes.

Q Now, to get back to this lawyer-client relationship which may or may not have existed between the people that had something to do with the beginnings of this bill, let me ask you if the Scotland Neck School Administrative Unit has retained my services officially?

A We have elected you our attorney.

Q Has the Scotland Neck School Administrative Board ever set any salary or paid me anything for anything I have ever done for them?

A No.

Q And as far as—so—and back before the school board was organized and was actually appointed, whether or not I received remuneration for my efforts and my legal—whatever legal work I had participated in up to that time would not as of itself determine whether or not I acted in the capacity of the lawyer-client for those folks, would it?

MR. KENNEDY: Objection.

Q (Mr. Josey) The mere fact I did not get paid would not be determinative of the issue of whether or not the relationship of lawyer and client existed between the group that went, let's say, to the Legislature or whether they went up to Tryon, would it?

MR. KENNEDY: Objection. It calls for a conclusion.

A You have confused me on that question.

Q (Mr. Josey) All right. I will ask him this question: Mr. Shields, I believe you say that the school—the Scotland Neck School Board had ex officio elected me as their official attorney, is that correct?

A Yes.

Q But they have not set any salary or retainer fee, have they?

A No.

Q They have not even set—there is no agreement either informally or formal agreement which in any way sets any sort of range of retainer fee, does it?

A No.

Q In fact, I have never received one dime of pay from the school board for even what deeds or leases I might have drawn, or actual legal documents, or any legal work I have done for the Scotland Neck School Board to date, is that correct?

A That's correct.

Q And they have never received a bill so far, is that correct?

A That's correct.

Q And yet don't you, as chairman of the Scotland Neck School Board, consider that a client-attorney relationship exists between me and the board?

A Yes.

Q Now, the question I ask you now: is the mere fact that I did not receive and have never received any pay from a group that—of individuals which began to draft this bill and get it through the Legislature and get it passed, the mere fact that I have never received any pay would not as far as you are concerned mean that I—that the realtionship of lawyer and client did not exist, would it?

MR. KENNEDY: Objection. Leading.

A No.

MR. JOSEY: He is not my witness. He's yours. I'm cross-examining.

Q (Mr. Josey) In fact, isn't it true that in this area, particularly these smaller towns, rural areas, that advice is sought, by certainly public groups and sometimes individuals, of lawyers that—that are strictly legal advice and yet the group that is seeking the advice doesn't ever intend to get a bill from the lawyer?

A Yes.

Q And in fact quite often the lawyers do have—do as a custom provide their legal services free of charge and still consider themselves giving legal advice—isn't that true in this area?

A Yes.

MR. JOSEY: All right, I believe that's all.

EXAMINATION BY MR. CREW:

Q Mr. Shields, in your opinion is the quality of education now being given in our public schools superior to that being given in the private schools that have arisen in recent years in this County and in neighboring counties?

A I would say so. I certainly have no thought of sending any of my children to one of these schools for that reason: I feel like that they are inferior.

Q I ask if in your opinion if the—either the Justice Department or Health, Education, and Welfare should order immediate and full and complete desegregation in Halifax County Schools and in the Scotland Neck Unit, if in your opinion that would encourage the growth of the private schools in this area, in and around this area?

A I think so.

Q Now I believe you testified this morning that all of the students that you know going to these private schools were of the white race?

A Yes.

Q Therefore, if the enrollment in the private schools should increase, I ask if the net result would not be a decrease in the amount of desegregation in the County rather than an increase in segregation or an increase in the desegregation?

A Well, it would reduce the number of white students going to public schools.

Q Yes, sir. Would it be feasible after August the 25th for the Scotland Neck Unit, or for the Halifax County School System, to make drastic changes or changes for that school year that is after August 25th?

A I don't think so.

Q In your opinion as a parent and from your experience as a businessman I ask if in your opinion is it detri-

mental to the education of a child to transfer the child from school to school or class to class or teacher to teacher during a school year?

A I think it is.

MR. CREW: That's all.

MR. KENNEDY: Just one question.

EXAMINATION BY MR. KENNEDY:

Q Have you conducted any investigation to determine to what extent and how often attorneys in this community provide free legal services?

A Have I investigated—had I made an investigation?

Q Yes, sir.

A No, but I know that they don't ever charge us at the church and in other organizations I've been in. I can't ever recall paying a lawyer anything, such as—well—social clubs, and that sort of thing.

Q Would your reaction be one of surprise if you would get a bill from Mr. Josey for services that he rendered to your group prior to April 8, 1969?

A Well, yeah, I reckon it would.

Q Prior to April 8, 1969, was Mr. Josey attorney for the Halifax County Board of Education?

A At any time prior to that?

Q No, during that time, throughout that whole period.

MR. JOSEY: From when?

Q (Mr. Kennedy) For the twelve months preceding April 8, 1969, was Mr. Josey an attorney for the Halifax County Board of Education?

A He was employed some of that year, but I don't know when his employment terminated.

Q Part of 1969?

A I don't know whether it was in 1969 or—I don't know whether his employment extended into 1969 or not.

Q Do you know that he went to Washington, D. C., in February of 1969 to the Department of Justice and talked to me there with Mr. Henry Overman and Mr. Benjamin Currin, the superintendent and assistant superintendent of Halifax County?

A No.

MR. KENNEDY: Okay.

EXAMINATION BY MR. JOSEY:

Q Do you know that as early as November Mr. Josey made a statement to the chairman of the Halifax County School Board and told him he was working with the group in Scotland Neck, and that if at any time he felt that the interest was conflicting with his duties as Halifax County School Board attorney, that he would turn in his resignation—do you know of that?

A I remember that statement being made.

MR. JOSEY: All right.

MR. KENNEDY: No more questions.

(FURTHER DEPONENT SAITH NOT)

• • • •

AUBREY POWELL

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. KENNEDY:

Q State your name, please.

A Aubrey Powell.

Q And your address?

A 407 North Grace.

Q And your age and occupation?

A 29. Postal clerk, Rocky Mount Post Office.

Q How much education do you have, Mr. Powell?

A High school.

Q Where was that?

A Scotland Neck. Brawley High, Scotland Neck.

Q Are you a member of the Scotland Neck City Board of Education?

A Yes.

Q Is that an appointed or elected position?

A Appointed.

Q How long have you been on that board?

A Since the organization in about April, maybe. Somewhat after they became a unit. In other words, April the eighth was the voting. About four days later. I don't

know the exact date. But somewhere around about April the 12th I believe.

Q Did you work with any other person prior to January of 1969 on behalf of the separate school bill for Scotland Neck?

A No.

Q Did anybody ask you during that period to—for information, for your opinion about the separate school system of Scotland Neck?

A No.

Q Were you living here in Scotland Neck at that time?

A Yes.

Q Were you living here in Scotland Neck in August of 1968?

A No.

Q When did you come back?

A October. Actually September, but I started working in Rocky Mount in October. September of 1968.

Q Where had you been before that?

A New York.

Q For how long?

A Well, it depends on what you mean by 'how long'. And I will explain this. Ten years totally, but really six years because my home address was stated as North Carolina when I spent four years in service, and, as a matter of fact, I spent most of my time here because I was stationed down at Goldsboro at Seymour Johnson. Actually, it's six years.

Q Are you generally familiar with the people and customs in this town?

A Yes, sir.

Q Were you born here?

A Yes.

Q Your family here?

A Yes, sir.

Q Are you married?

A Yes, sir.

Q Do you have school-age children?

A Not yet. Four.

Q You have a child four years old?

A Four years old, that's right.

Q Do you know anybody who was working during the period of August 1968 to January 1969 on behalf of the school bill?

A Do I know anybody that was working on that behalf?

Q Yes.

A You mean did I know that they were actually doing it?

Q No. Do you know now that they were?

A Yes, I know the people that originated it, but at the time I did not know the people that originated it.

Q I'm asking what you now know about what happened back then.

A All that I know is that the people of the Town decided they just wanted a better education for the people, you know, for the people of Scotland Neck, and that they proposed a bill through the Congressman, that they set up that school system for the Scotland Neck city limits.

Q That was to the State—State representative, wasn't it?

A Right.

Q Do you know any Negro persons during the period August 1968 to January 1969 who were contacted to work—for their views on the separate school system?

A Not—no, only hearsay.

Q Who?

A Professor Bias, Brawley High School. This is strictly hearsay.

Q Anybody else?

A Hearsay again, what is—

Q To refresh your memory, do you know Mr. Herritage?

A Right.

Q Is he connected with the Halifax County Schools?

A Right.

Q What does he do?

A He is a principal at one of the schools, outlying county schools.

Q Did you talk to them about the separate school system?

A Mr. Bias. I haven't seen Mr. Herritage yet.

Q What was the substance of your conversation?

A The conversation with Mr. Bias—after being a board member—the conversation was to—actually, it was to help me out as far as the school board operation. In other words, this is my first time serving on a board, and he is a trustee at Elizabeth City College in Elizabeth City, and he was just giving me general information—what to expect on a board, and so forth.

Q Did you discuss the impact of the Scotland Neck School System on the desegregation of the Halifax County Schools?

A Not really. The things that he said were more or less what I would have to encounter as a board member from different people who would probably be—resent me, from some blacks, and probably resent me, from some whites. And that is about the extent of it. And the general going-about duties on the board.

Q Has the board adopted a tuition—correction. Has the board discussed a tuition policy for children coming to school who do not live in Scotland Neck?

A Yes.

Q Has the board adopted such policy?

A Yes.

Q Tell us what that is.

A The policy is that the people who reside outside of the city limits would pay a tuition per family, per student, actually. Actually, it's a hundred dollars for the first, a hundred twenty-five dollars for the second, and a hundred fifty for the—maximum for three in one family, but the minimum is one hundred dollars.

Q How many students are expected at Scotland Neck School who reside outside of the town?

A Approximately in the area of 380 or 390, I believe, outside of the city limits.

Q Do you know how this number was determined?

A We had pre-registration which was done in accordance, more or less together with Halifax County, since they had all the records for all the students in the County; they had to get their pre-registration. So we worked with them so as that would get the pre-registration, and

they had a form where the people who wanted to come to the Scotland Neck Unit would say so.

Q Is that the free choice form?

A More or less free choice. That is Halifax County forms, incidentally.

Q Do you know, of this approximately 380 children who live outside of the town, what is the racial breakdown; how many whites and how many Negro?

A I believe there is about thirty—about thirty Negro and the rest white to come into—this is to come into the city unit.

Q I see. When is the tuition due?

A The tuition—there was a pre-registration fee of ten dollars that come with pre-registration. The fee is due—the date was set as half the fee for the first—you had to pay half of it by August first, I believe, and the other half at the second session in January, but that date hadn't been actually set in January yet.

Q When are you going to open schools?

A School opens on August 28th I believe. I have a calendar; I think it's the 28th. The 26th or the 28th.

(DISCUSSION OFF RECORD)

A Approximately the 27th or 28th.

Q (Mr. Kennedy) Do you know the total number of Negro children that will be at the Scotland Neck School this fall in addition to the thirty?

A In addition to the thirty, would be somewhat in the area of 300. Close to 300. In the 300 area.

Q And those children, I presume, are the ones who live inside the town?

A Inside the city limits and—well, those are the ones that live inside the city limits. These are the ones that we know we have.

Q Will some of those children be permitted to go to Brawley?

A Not of the number I mentioned.

Q Not of the 300?

A No. This number is from one to ten who were assigned. There was more or less a freedom of choice given to eleven and twelve because of prior commitment to

Brawley, so they had a freedom of choice where—some had already bought class rings, and so forth.

Q Of the approximately 380 children outside of the town will any of them be exempted from tuition?

A No.

Q Does everybody have to pay tuition?

A Everybody will have to pay tuition. There's possible now that—we have two speech education teachers. There could possibly, where there is a deficiency, as far as you have some people in the area that I know personally have a deficiency—how would you say it? They have retarded—really—where you have special education I believe, in Halifax County doesn't have the special education this year, that they will be allowed to come in under—for special education. These are retarded people. We haven't made a decision on that yet. We—this is strictly my opinion. There's been no decision on that.

Q How many people are involved?

A As far as I know we haven't even got the count yet, and this only came up in the last meeting and no decision hasn't been made on it. This is strictly my opinion of what might happen.

Q Do you know any Negro families who during the last school year sent their children to Scotland Neck who live outside of the town and who will not send their children to Scotland Neck the coming year?

A Well, I don't know of any particular ones that will not, because the ones that I know that sent them there last year had intended to send them this year. Now I don't know if they have applied or not. I could check the records and see if they applied—I don't know—but they intended to apply. That is what he said, anyway.

Q Do you know of any persons, white or black, who have indicated that they live outside of the city limits and who will be—either find it difficult or be unable to pay the tuition?

A Not who have been interested in the school. I have heard no one personally who wanted to come to the school say anything about the tuition, that they are not coming because of the tuition.

Q The reason I am asking you—now the reason doesn't have to be—the tuition doesn't have to be the whole reason; it could be a part of the reason.

A Well, no. The only people that I have heard mention anything about the tuition was people who didn't have any students at all to come into either school. They were just expressing their opinion and it had nothing to do with a student coming into the school system.

Q Do you know when Professor Bias was contacted about his opinion concerning the separate school system?

A No.

Q Or who contacted him?

A I haven't discussed with him on that matter.

Q Are there any Negroes who are elected officials in Scotland Neck?

A Not that I know of.

Q In Halifax County?

A Elected officials? I'm not that familiar with the Halifax County School Board.

Q Do you know of any—

A All I know, they have some on the sheriff's department. I don't think that is elected though.

Q In your familiarity and knowledge of the general community customs, is it customary for Negroes to have their own churches and for whites to have separate churches in Scotland Neck?

A It is customary. I don't know of any instances where there's been any resentment or requirements one way or another, but it's been a custom to have it in your certain denominations. I think there are some denominations that there are—I have known some Negroes to go what is predominantly white churches here, but it's been a custom that they have their own churches.

Q Is it customary for adult Negroes and adult whites to visit in each other's homes socially?

A Well, it depends on what you mean because there are occasions where it happens, but to say it is customary, I wouldn't go so far as to say that. I think it depends upon the individuals who are involved.

Q Is it customary in Scotland Neck for teenage Negroes and teenage whites to date?

A No.

Q Is it customary in Scotland Neck for Negroes to use—to eat at the eating places, the restaurants?

A Well—

Q Customary.

A No, it is not customary. Well, that depends, too, because there are some places that they do. It is not a restaurant. What would you call the place? . . . The snack bar, the Tastee Freeze place. Everybody goes there.

Q Do you sit down and stay or stand—

A They have this counter service outside.

Q A drive-in restaurant?

A That's right, drive-in restaurant.

Q There's been previous testimony that the Brawley High School is on the edge of the Town of Scotland Neck but outside, and borders the town limits of Scotland Neck, and it is within a mile or maybe a little more of the Scotland Neck campus.

A (Witness nods head in the affirmative)

Q Do the white and Negro—white teachers from the Scotland Neck School and the Negro teachers from Brawley School—is it customary for them to meet socially?

A I'm not sure about that. There are joint meetings, but I don't know.

Q Professional meetings?

A These are professional meetings, but on socially, I'm not sure.

Q Is it customary for white persons in the Scotland Neck area to be employed by Negroes?

A Customary?

Q Yes, sir.

A Let's see. I don't believe so. There have been some cases where there have been employment, but I wouldn't say it is customary.

Q Is it customary for Negroes to be employed by whites?

A I would say so.

Q Did you have a conversation with a reporter from the Raleigh NEWS AND OBSERVER?

A Yes, sir.

Q Mr. Gene Marlowe, I believe?
A Right.
Q Concerning the Scotland Neck Schools?
A The Scotland Neck Schools, yes.
Q Of the approximately 380 non-resident children, does this—and of that eliminating approximately 30 Negroes, that is approximately 350 whites?
A Approximately.
Q Does that include all of the white children in the Scotland Neck area outside of the town?
A I am not sure because I don't know how many who are enrolled in Enfield Academy.
Q Is that a private school?
A That's right, a private school. And how many might be enrolled—I think there is another private school in Northampton County and there is another private school in Rocky Mount. I don't know how many are enrolled in those schools.
Q Do you know of any white children living outside of the Town of Scotland Neck who will be going to public schools in Halifax County this coming fall?
A I don't know of any. You mean this immediate area?
Q Yes, sir.
A I don't know of any.
Q We discussed—Brawley is outside the Town. That is a predominantly Negro school or all Negro school?
A Right.
Q I believe—is the Tillery Chapel, that is outside the Town?
A Yes.
Q And Thomas Shields is another Negro school, isn't it?
A Yeah.
Q And Bakers?
A (Witness nods head in the affirmative)
Q And Dawson?
A Right.
Q Do you know of any whites—white children going there?
A I don't know of any.

Q Are there white children that live in the areas of these four schools that I mentioned—Bakers, Thomas Shields, Dawson, and Tillery Chapel?

A The Thomas Shields, the Dawson, and the Tillery Chapel, Bakers—no, I don't know of any.

Q Where are those white children going to school?

A Previously they were coming to the Scotland Neck School. Now I feel sure that some of these people that are enrolled here will be from some of those areas, will have to be from some of those areas.

Q Does the board or its superintendent have the names and addresses of the children who are coming to the school?

A The superintendent handles this.

Q The election of the referendum held in the Town here, I believe on April the eighth, was to approve or to disapprove the Soctland Neck School System—isn't that right?

A Yes.

Q Do you know of any Negro or predominantly Negro organizations who were working on behalf of passing that legislation?

A No, I don't.

Q Any citizens organizations or predominantly Negro churches?

A Not working in behalf, no.

Q Any working against passage of the referendum?

A One organization. That was the Scotland Neck—I can't even—

Q Is that Reverend Deloatche's?

A Reverend Deloatche's.

Q Do you know of any Negroes who informed Mr. Thorne Gregory, the State representative, that they were in favor of the separate school system?

A I don't know of any.

Q Or hear tell of any?

A No.

Q How many principals will you have this year at Scotland Neck?

A In the Scotland Neck City Unit?

Q Yes.

A One allotted by the State.

Q What is his name?
A He is yet to be hired.
Q What happened to Mr. Edwards who was there last year?
A He sought employment at another place.
Q Do you know where that is?
A No, I don't, not—
Q Will you have a building principal at the junior high campus?
A Yes.
Q Has he been selected?
A No, he hasn't been selected. It will probably be from a classroom allotment.
Q So you need both a principal and a building principal?
A Right.
Q Do you know the Negro children residing in Scotland Neck who will be at the Scotland Neck Schools in grades eleven and twelve this year?
A I don't know. I would have to check the records on this.
Q You told us—we talked a little earlier about that.
A They had a freedom of choice on that.
Q Some Negroes—
A That had purchased class rings, and so forth, some had indicated that. They would be special—some of the basketball players and football players.
Q Was there any discussion or have you known of any discussion about the possibility of a special taxing district for the Scotland Neck area as a substitute or alternative for a separate administrative unit for Scotland Neck?
A State that again.
Q Do you know whether there's been any discussion of adopting a special taxing district where the Town or an area around the Town of Scotland Neck could raise special tax monies to be used just for the schools in Scotland Neck without going so far as creating a whole separate administrative unit?
A No. The only thing I know about the taxing was in the referendum where there was another fifty cents for a hundred evaluation to be on the townspeople for this

A It's in the community. In other words, it wouldn't be hard to find.

Q Are there others?

A Do I have any more relatives in the system? . . . Queen Wiggins, elementary teacher at Dawson.

Q Are these cousins?

A Cousins. They are all cousins; that is the distance. The other two are first cousins.

Q Have any of your relatives taught at predominantly white schools?

A No.

Q How many teachers are you going to have this fall? Let me ask more precisely: how many teachers do you want to have this fall—you, the Board, want to have this fall?

A Well, whether we want them or not we are going to have what the State allots us, and I—that will be the final determination—I don't think it has come up yet.

Q How many teachers, not State allotted teachers, do you plan on having?

A There won't be any as such.

Q Are you going to offer a supplement?

A Not this year.

Q Are you going to offer a supplement any year?

A That is what we're working on, trying to, working on to get a supplement for your better teachers. In other words, where you have better teachers, just—that's what we are working on to have better teachers.

Q You mentioned two special education teachers. Who pays them?

A The State. The State will pay them.

Q How many vacancies do you have for teachers now?

A No more than seven.

Q Has there been any change in the curriculum at the high school over what was taught last year?

A I think there will be—music will be dropped. And that's about all. Everything else will be practically the same. They are working on a curriculum studies program whereas they will be—eventually see fit to change the curriculum according to the needs of the community.

Q Who is developing—who is working on this?

A The superintendent. And he'd have student groups from the colleges during the school year to work on it, and the community to work on the curriculum studies.

Q Who in the community?

A Everybody.

Q Everybody can't.

A In other words, people from all aspects of the community.

Q Do you know who these are?

A No, we haven't selected them yet. They are people to be selected yet—to be selected.

Q Do you know of any other curriculum studies that have been done as of now or are being done right now?

A Not really. They really haven't started yet on the curriculum studies.

Q Do you know of any evaluations of the education program at the Scotland Neck School that have been done in the last year?

A Not personally, not—I haven't had any personal contact with the people who have done the evaluation. I am sure that some has been done. There was a lot of discontentment with the people, just people in general, about the condition of the school. Just talking to different people, they were highly discontent.

Q Who was?

A Merchants, people who had pupils going over there.

Q Do you know any names?

A Eckles was one, from Western Auto. It was a Forest Sherron.

Q That is an insurance agent here in town?

A Right, an insurance agency. People I have met on the street that I don't even know some of their names, people that was—they knew that I was on the board.

Q Any Negro persons?

A Some Negro people, too.

Q Who was that?

A Kiah. Lives on East Twelfth Street.

Q Do you know what Mrs. Kiah's complaint was?

A She just mentioned that she didn't think the school was operated properly. In fact, I believe her daughter or granddaughter was going to the Scotland Neck School

rather than the Brawley School before, and for some discontentment they were going to leave the school.

Q And go where?

A I don't know, but they—they have been reassigned to the school now because they live inside the city limits.

Q I didn't mean to overlook this document I am showing you now, entitled "The School Survey," North Carolina Department of Public Instruction. Do you know of any surveys of schools or curriculum or anything touching the schools in addition to this survey?

A No; I don't.

Q Do you know the—any persons who were working on behalf of passing the referendum on April eight?

A Do I know of any?

MR. JOSEY: What was that question?

Q (Mr. Kennedy) Do you know of any persons who were working in favor of passing the referendum, April 8, this year?

A Yes, by way of the paper I know the people that went to Raleigh, in favor of it, was in the papers. Had Mr. Henry L. Harrison.

Q To speed this up, in addition to the persons who were in the paper, do you know persons who tried to get people out to vote?

A For it?

Q Yes, sir.

A I don't know of any particular drive by anyone to vote for it. The only—

Q Any person-to-person contact in favor of it?

A No, not to mention it at all—vote, no.

Q Did you see any advertising literature in favor of passing the bill?

A No.

Q You know, the handouts that you—

A I know what you mean. The only thing I saw was against it. I didn't see any literature encouraging people to vote for it. The only thing I saw encouraging people to vote for it—it wasn't even encouraging people to vote for it—was an editorial stating their opinion in the Scotland Neck *Commonwealth*. It was stating their opinion. You could take it one way or another.

Q I am going to show you what looks like a clipping from the Scotland Neck *Commonwealth*, newspaper clipping dated April 11, 1969; the by-line in the article is Harold Stephens, S-T-E-P-H-E-N-S. There is a picture there. Can you identify the persons in that picture?

A Yes. The Mayor.

Q Is that the gentleman standing up there?

A Right. That is the Mayor.

Q Without a hat on?

A Right. And that's—I can't recognize the other people.

Q Okay. Thank you. Has there been any discussion by anybody with respect to merging all or part of Brawley and the Scotland Neck Schools?

A Well, there has been some people that asked a question: why didn't that happen; why wasn't it that way.

Q Who asked the question and to whom was the question addressed?

A The question was asked to me. By who? . . . Who asked that question?

Q Was that before or after—

A This was after the whole organization.

Q I didn't mean to interrupt you.

A I believe it may have been Grant. Gary Grant.

Q Who is he?

A They have a service station here, but outside the city limits. They live in Tillery.

Q What is his race?

A Negro.

Q What was your reply?

A I told him that that may have been one of the alternatives but it wasn't offered at the time of the referendum, because he was asking me a request that I had no control over. It had already become a school system when he asked the question.

Q With respect to the several private schools that you talked about, did the Mayor or Mr. Henry Harrison or Mr. Josey or Mr. Frank Shields ever discuss that with you?

A No.

MR. JOSEY: Ever discuss what?

Q (Mr. Kennedy) Discuss the private schools.

A Private schools, no. That, as far as I can remember, that's never been an issue one way or another as far as this board is concerned.

Q But you did tell us—

A Or in private.

Q But you did tell us that you believed the white children living in the outlying areas, outside of the Town might go to Tillery Academy?

A Might go to it or attend?

Q Might attend.

A Oh, this is general knowledge, that some might attend there. This is nothing new. There are some that attend the Academy now.

Q Do you know the names of those children?

A No.

Q Do you know who does?

A I know some people that know some people. In other words, I think there is one man in particular in Hobgood that my cousin knows, and there would be some other people—because I have seen the bus myself going there with several on it. I don't know the names of them, but I have seen the bus that takes them there.

Q The approximately 380 non-resident children who will be attending or possibly attending Scotland Neck this fall, will they be provided bus transportation?

A No. They will have to provide their own transportation.

Q Are there any car pools going to be set up?

A I don't know, as far as the school—the school system is concerned there won't be. In other words, we have no responsibility whatsoever for them coming except maybe through the insurance procedures. But as far as their coming to the school, they have to furnish their own transportation. Now if they got their own car pool, I think—I guess that—I guess that would be logical. It would save money.

Q Has the board approved the lease agreement to rent the junior high school site from the County School Board?

A Yes, they have. That is finalized.

Q What are the terms? How much is it going to cost the city board to lease that?

A I believe it's a dollar a year.

Q I see. For what term does the lease run?

A One year, providing their need—I believe the Halifax County Board said they didn't have any need for it this year and that the term would be according to their terms for next year.

MR. KENNEDY: I don't have any further questions. Mr. Josey and Mr. Crew.

EXAMINATION BY MR. JOSEY:

Q Now, Mr. Powell, I believe you said that you—were you living in New York at the time that you went in the service?

A Not legally as a resident.

Q Well, were you working up there?

A Right. I was there working.

Q And how old were you at that time?

A Nineteen.

Q And how long had you been up there working after you—graduation from high school in Scotland Neck?

A Three months. The summer months.

Q And where did you register? Up there? Did you register—

A To go in the service?

Q Yes.

A I enlisted, but everything had to come from this Halifax County local board.

Q In other words, you enlisted—

A It was just a matter—

Q But you listed your residence as Scotland Neck and Halifax County?

A Scotland Neck and Halifax County. Everything came under it.

Q What sort of work were you doing at that time?

A Believe it or not I was playing baseball.

Q For a little bit of money?

A Yes.

Q What position did you play?

A Pitcher.
Q And where were you living in New York?
A I was living with a sister in the Bronx.
Q At what address, do you remember?
A Well, that address is—that address was 1419 Stebbins Avenue in the Bronx, but she has since moved twice.
Q I mean at that time.
A At that time, right.
Q All right then, what branch of service were you in?
A Air Force.
Q And what—how many years were you in the Air Force?
A Four.
Q And where did you first go from, take your basic training?
A Lackland, in Texas, San Antonio, Texas.
Q San Antonio, Texas?
A Right.
Q How long were you there?
A About a month.
Q And then where did you go?
A And transferred to Keesler, down in Mississippi, at Biloxi.
Q How long were you at Keesler Air Force Base in Mississippi?
A Nine months.
Q And what type of training was it that you received?
A Radio maintenance.
Q And then—approximately what year did you enter the service?
A Actually it was October 8th, 1958.
Q And from Keesler Field, Biloxi, Mississippi, where did you go?
A Seymour Johnson in Goldsboro.
Q And what type of training—what type of unit were you assigned to?
A They assigned me to a supply unit for cross training. That's what they call it in service.
Q And what does cross training mean?
A Cross training means that my equipment had become obsolete and they put me in the next available field, which was food service.

Q And so you then became connected with food service, as they call it a mess steward.

A Actually in a mess steward they call it food service specialist, you know, where you go from administration; you work the whole phase of it.

Q And that was at Goldsboro, North Carolina?

A Right.

Q How long were you there at Seymour Johnson?

A Two years, and at the time I acquired another A.F.C.S., what they call an Air Force Career Specialist, into highway construction. Highway construction.

Q And how long were you in that phase of it?

A Well, that phase was really temporary because I was transferred to Alaska under the food service A.F.C.S.

Q After you got to Alaska did you then go into highway construction?

A No, stayed in food service.

Q In food service. And what base were you assigned to?

A Galena Air Force Station.

Q And what town was that near, if any?

A Galena—a little dot. Yukon River.

Q Was it near Fairbanks or Nome, or how far from which of those?

A It was 300 miles northwest of Anchorage and about a hundred ninety miles southeast of Fairbanks.

Q And how long were you there?

A A year. One year.

Q And then?

A And that did it.

Q Up until this time were you in what is known as the regular Air Force or were you in the regular Air Force?

A I was in the regular Air Force at that time.

Q And after a year in Alaska you decided not to re-up?

A I was discharged, that's right.

Q And what—were you discharged at Galena Air Force Base or did you come back to the States to be discharged?

A Well, effectively, the way they word it, the—my tour of duty was at Galena. The way they worked the procedures your discharge is finalized at McChord Air Force Base at Seattle.

Q All right. Then when you left McChord Air Force Base in Seattle where did you go then?

A I came here for a short period.

Q To Scotland Neck?

A Right. And I had a job waiting for me in New York, so—

Q And what month and year was that?

A That was August, what they call an early hour. August 14th, of 1962.

Q All right. Now you—then after just a month's leave really—

A Right.

Q —here in Scotland Neck, you then went to New York, is that right?

A Right.

Q And what job did you take there?

A Construction, in the construction line. I was working with the carpenters in the basic construction.

Q What rank did you receive—were you at the time you were discharged?

A Airman second.

Q What step in that category, pay category?

A Pay category, it's E-3.

Q Now what was the—what was the—how long did you stay in this particular job when you went to New York?

A For—from 1962 to 1965.

Q What was the nature of your duties?

A To—the nature was to start off as an apprentice, and the nature of your duties was to—building of forms for protection against elevator shafts and staircases, and from just falling out the building, period.

Q In other words, some type of construction, insulation against—not scaffolding, but something that appeared to be scaffolding?

A Well, scaffolding, too. Excavation of materials. In other words, we build dirt shutes, and so forth. That

was the beginning of your phase. The second phase was setting of door bucks, setting up doors, setting of window frames, setting up cabinets, putting down wood base for them. General carpenter work.

Q By the time—just before you left that field of endeavor or job what was your position with the—what was your particular duties?

A Before I left?

Q Yes, just before you left.

A I had become a—well, actually I wasn't with the same company. That was my reason for leaving. The work up there—you got a very high scale and with a union affiliation, and because of the high scale, whenever the job is slow, they let them go. In other words, the youngest go. And I was going from one job to another, the same type of work, but being that I was in the Brotherhood of Timbermen and Journeymen meant that I had to do some timberman work, too, so at the final stages I was working out in the stag line work where they were digging holes and putting down stag lines and storm sewers.

Q Did you get in the phase of—in somewhat of a supervisory capacity or were you still wielding a hammer, or what was your—.

A I wielded a hammer the whole time. It's hard to become a foreman in that line for that length of years. You would have to stay with the company approximately five or six years before you could even think about becoming a foreman, and that is almost unheard of now for people to stay with one company the entire time because of the high salary range.

Q When you first went to New York what was your address, if you recall?

A 301 West 150th Street.

Q Is that the section known as the Harlem area?

A Well, they call it Harlem, and then some people call it another—some people call it Harlem. Some people call it Washington Heights. It's in that general area of upper Harlem.

Q How long did you live there?

school unit. That's the only taxing that I know of, which was approved in the referendum, you know, by the people. I don't know when it was effective. I think it was July first probably—another fifty cents for a hundred dollar evaluation.

Q When were you first contacted as to whether or not you would accept an appointment to the school board here?

A About two days I believe—when the people voted a separate school system.

Q Did you have any indication of that before then?

A Not at all. It was a surprise to me—that it was.

Q Who contacted you?

A The Mayor of the Town. And he asked me, he said that—his conversation to me—that he had asked around and that I had been recommended. In other words, my name came up and certain people—I guess from the Negro area, I guess, or somewhere—said that they recommended me.

Q Do you have relatives who are teachers or who work for the school system?

A Yes. What? This school system or the Halifax County?

Q Either one.

A Halifax County, yes.

Q Who is that?

A Victoria Lambson. Miss Victoria Lambson.

Q What does she do?

A She is a biology teacher at Brawley.

Q Does she live here in town?

A No, she's at Hobgood. That's all you want to know?

MR. JOSEY: Tell him all of them.

A Mrs. Annie Mutts Rutherford.

Q (Mr. Kennedy) Where does she live?

A Roanoke Street. I don't know the number.

Q Here in town?

A Yes.

Q Mrs. Lambson—could you tell us where she lives?

A She lives in Hobgood. They don't even call that a street.

Q Where is it? It's in the community.

A A very short while. About—well, actually, I moved into it approximately in December, so from September to December. Three months. And I moved to 1823 Davidson Avenue in Bronx.

Q And then how long were you in the Bronx?

A Until I moved here.

Q During the time that you were in New York until you moved to Scotland Neck, moved back to Scotland Neck, were you in this same type of construction business the whole time?

A No.

Q When did you change the types of employment?

A Well, I had applied for—well, I had taken the post office test for some time, and it looked like it wasn't coming through so I was employed by Northwest Air Lines.

Q In what capacity?

A As a ramp operator. I will explain that. They take care of baggage, the loading of the plane, the actual loading of fuel, in other words, the measurement of the fuel that goes into the plane, and the general maintenance of the plane really.

Q Where was that—at La Guardia?

A No, at Kennedy Airport.

Q And how long were you with Northwest Air Lines?

A Well, I was with them I think, regretfully, for only two months, I believe, because the post office called me.

Q All right, then, where did you first work for the United States Post Office Department?

A At General Post Office in New York. Manhattan.

Q And how long did you work there in New York for the post office, approximately?

A Let's see. Approximately three years.

Q And did you work for the United States Post Office in Manhattan continuously up until the time you left to come to Scotland Neck?

A Yes.

Q And what was your—what was your duties in the post office there, the United States Post Office?

A Well, to break it down, just make it plain, it was clerk, a clerk in the post office, because their duties range from so far it would be hard to try to explain all of their duties.

Q All right, sir. Now in the places that you lived, either in Harlem, upper Harlem, Washington Heights, or the Bronx, in New York, was it the general custom in the community in which you lived for Negroes to go to generally predominantly Negro churches and whites to go to white churches?

A Yes.

Q Was it not generally the custom for Negroes, young men, Negro men, to date young Negro women rather than the mixing of the dates?

A Right. In other words, you are asking me wasn't it customary that Negroes dated Negroes and whites dated whites?

Q That's right.

A Yes.

Q Did you know anything at all about the—did you see any schools in upper Harlem or Washington Heights as you went from work to where you lived; did you see any school children out there next to schools and around schools; did you know anything about—anything at all about the schools or where they were or anything else in Washington Heights?

A Well, in the actual Washington Heights area, which is mixed, you have a mixture of just about every nationality there. George Washington High School up there is fairly well mixed. It was once predominantly white but then it came—it was pretty well mixed, but down further in Harlem you have practically all black and Puerto Ricans.

Q All right. Now in any of your six or so years—number of years of staying in New York wasn't it the general custom that—was it the general custom that whites—white people worked for Negro people? Was that the general custom up there?

A Generally, I would say it wasn't the general custom. There were cases that they were working for black,

but generally it wasn't the case. Generally, the black community hired its own.

Q All right, sir. Did you as a Negro living in Washington Heights or the Bronx, working in Manhattan, was it your custom as a Negro, when you went into the homes of other people socially, was it your general—wasn't it your general custom to generally socialize at homes with Negroes rather than with the whites?

A Generally.

Q Wasn't that also generally true of your observation of other—of most of the other Negroes which—which you knew?

A Yes. Actually, it's more or less—I guess you could round it off that people stuck to their own kind socially. There were cases where you were invited to another race's house, you know, for supper or dinner, so forth, but generally socially, unless it was an organizational thing, say—there was unions and—well—organizational things, you very seldom mixed, in certain areas anyway. Of course, when you went out farther, out in Long Island, it became different, but in the actual city limits of New York, whether you included the Bronx, Queens, Richmond, which is Staten Island, Brooklyn, generally people associated with particular races.

Q Now let me ask you this: before you testified here this morning have I as an attorney or as an individual in any way talked to you about what questions would be asked, how to answer the questions, or in any way indicated to you any answers that you should give here or not give here?

A No. My big question was I—the big thing was I didn't know when I was ever going to be here. To put it bluntly, you haven't talked to me at all, or anybody.

Q Has anybody tried to tell you what questions were going to be asked, what answers to give, or in any way try to influence your answers given here today?

A No, No one has actually mentioned it because I came here dumbfounded this morning to find out what was going to happen, like no one has mentioned any questions about what went on, and the information that I could get out of Mr. Shields—he's the only one that

I talked last week when he was waiting. He said "I don't know when you are going to be called," and he said that Mr. Overman testified for two days, and that Wednesday—I think you were tied up Wednesday, or some of you was tied up Wednesday, and someone was going to call Thursday. And someone called the house and my child answered and told me—I took it to be Mr. Shields—Friday, and somebody said be there at two o'clock, and I didn't know whether it was a job or what—whether it was Mr. Shields or the attorney's orders.

Q Let me ask you this: since you have—has any board member or any member in the community—certainly, any white citizen—or anybody as far as that is concerned, tried in any way to influence you in the stand you took in the board meetings or in any way tried to pressure you or influence you to make a decision for any particular reason?

A No, I—and the—no one, either black or white, have tried to influence me in any way during these proceedings or during any proceedings for the board. I have gone to people, especially in the Negro community, to find out what are some of the things that they want as to the operation of the school. I have gotten some reaction, but not that much.

Q Do you have any indication at all, or is there—do you believe that the School Board, the Scotland Neck School Board, since its appointment, has in any way attempted to operate by some—any secret meetings in excluding you or had you had any indication or do you know of anything that they have tried to do as a group that they haven't included you in on?

A Not to my knowledge. Anything that became official has been done by the Board. There were certain duties that Mr. Shields would have to do as chairman and bring it back to the Board for action, but this was done—this was board action. Everything that was done officially was done by the Board. There has been no—anything done secretly. Anything that was ever done without my being there was when I asked to be excused. I asked. And I think that was only one time that I have been excused from a meeting that I couldn't attend.

Q And the appointment—what I'm asking you, which you basically answered, have you had any feeling whatsoever since you have been on that Board that anybody was either trying to unduly influence you or whether they were trying to run the Board without consulting you in any way—didn't want your full opinion on a matter?

A No, I haven't had any indication of that.

Q Now before Mr.—the Mayor approached you about being on the Board and asking you if you would serve—and that is basically what he did?

A Right. He asked me if I would serve, right.

Q If you would serve. Did he in any way ask you any questions as to your feelings about the bill or in any way try to get you to indicate to him what position you'd take on any issues that arose before the Board—in any way tried to determine what your philosophy was or anything before he appointed you?

A No, sir. He just told me that I had been highly recommended, and asked me would I serve, and I told him I couldn't give him a definite answer actually, not as to my actual taking it, in my opinion it was strictly a matter that I had to go to the Post Office to determine whether I would be able to serve or not and I had to get approval from Atlanta.

Q And did you in fact get that approval?

A I got that approval, and that didn't mean I was on the Board. I had to be approved by the City Council. And so they approved it. In other words, there was no prior coaching or prior questioning as to my feelings, you know, as to the school situation as it had been developed.

Q Now before this vote on April the eighth, 1969, had you—did you personally know or ever had any contact with Mr. Frank Shields?

A To be frank, I didn't really know him. I knew his name, as far as his company over here, but I didn't know him personally until we became Board members.

Q And did you know Mr. Ferd Harrison or—before April 8, 1969, or had any personal contact with him?

A I hadn't had any personal contact with him at all. I can't recall, since my being here, until after that.

Q All right. Did you know—before April 8, before this school bill was actually passed, did you—had you had any personal contact with Mr. Henry Lee Harrison or worked for him or had any contact with him or know him at all?

A No. I knew him, but I didn't have any personal contact with him.

Q Now, you say you knew him. In what?

A Oh, I knew him as far as his company. Oh, yes, there was personal contact. I will take that back. He had the contract I believe for the heating system for the school, for this house, the project that the high school built.

Q The T and I project?

A T and I project. And at the time that I went to see him it was at the time when he was—when he was on the Halifax County Board of Education, and then he went to magistrate I believe.

Q How long ago was this?

A This was prior to the election. But I was trying to find out some information about that house because I didn't know anything about it, because I was going to submit a bid for it.

Q I see.

A But after I became—got on this Board, then I couldn't bid on it.

Q That was back in sometime—

A When it was first advertised. It wasn't even advertised I don't believe, because I was asking in Town to see how—

Q It may have been in January or February?

A Probably in that time.

Q Did you and he, Mr. Henry L. Harrison, at that time have any discussion at all about it?

A About the school system?

Q About the school system or the school board?

A I didn't know anything about the school system at that time, or the school board. The first I knew about the school system was I picked up THE NEWS AND OBSERVER one morning and I read it.

Q How long would you say you were talking to Mr. Henry L. Harrison about the building?

A I went to him in a state of confusion. Someone had told me that he was in charge of it and I went to him and found out he wasn't in charge of it, and—I saw some of his men put the heat in—and he told me he didn't have any information on what—what it cost or what the bidding was, I would have to wait until the house was advertised and it came up for bid. And that was all it was to it.

Q No more than five minutes?

A No more than five minutes.

Q And as far as you know, before the school bill on April the eighth, that was the only personal contact you had with him—over the phone or anything else?

A Yes, that's right.

Q And you never knew me before?

A No. The first time I saw you was at Halifax I believe. No, it wasn't at Halifax, no. It was after I had been appointed to the Board.

Q After you had been appointed to the Board?

A It was after I had been appointed to the Board.

Q Now, I think Mr. Kennedy asked you whether or not you knew that there were any elected officials either in Scotland Neck or Halifax County, and I believe you said as far as you knew there were none. You, of course, do know that there are—have been for a number of years, several years, Negro policemen appointed by the Scotland Neck—

A Right.

Q Whoever they are appointed by, hired by—the Scotland Neck Police Department, anyway?

A Right.

Q Do you also know that the local community hospital board has had a Negro member on that board for probably twenty years?

A No, I didn't know that.

Q Do you know that there is a member, or has been a member for many years on that board—on that hospital board?

A Hospital board?

Q On that hospital board?
A No, I didn't know that.
Q Did you know or do you know now that the Scotland Neck advisory—or that this area advisory council which was—school advisory council which was appointed by the Halifax County School Board, under the law, that Scotland Neck was the first such area in the whole County to have a Negro member of the Board?
A I didn't know about it being the first, but I knew there was one on the Board. The confusion to the question was that he said an elected position.
Q Yeah, I know. This is a different question.
A Un-hunh.
Q A different question.
A Right.
Q I believe that you—your job—you are still with the United States Post Office?
A Right.
Q But your duties actually with the Post Office is located in Rocky Mount, in Nash or Edgecombe County?
A Well, it's hard to say. One of them is in Edgecombe and the other is in Nash County.
Q In Rocky Mount, North Carolina?
A In North Carolina.
Q And that you go to and from your job; you travel all the way from Scotland Neck to Rocky Mount when you go to your job?
A That's right.
Q And you prefer to do that than live in Rocky Mount, even though Rocky Mount is a larger city—isn't that right?
A Right.
MR. JOSEY: All right. I believe that is all.

EXAMINATION BY MR. CREW:

Q Mr. Powell, you came back to Scotland Neck to live because you considered it a better place in which to live than in Harlem and the Bronx, isn't that true?
A Well, frankly speaking, yes.

Q And I will ask you if race relations here in this County haven't been very good and in fact as good as they are in Harlem and the Bronx?

A Somewhat better.

Q And you came back here because you considered the school system here a better school for your children to attend?

A Partly. That is part of the reason. I knew that they could get a better education in the system down here than they could in New York under the public school system, and in a small community like this you can exert more influence into the school system to make it a better system, whereas in the larger cities it's become a bureaucratic—it's nothing too much any one individual can do. In fact it should have been evident—I don't know, you may have heard it here, they had a big thing in New York in the school system, whereas the local people were trying to get some control over the school. Evidently they did get some control, but it's more a shambles.

Q Is it your opinion, from living here, that the public schools in Scotland Neck and in Halifax County give a superior education to the public schools in the Bronx area and in Harlem?

A Now. At the time I was in high school I believe Halifax County offered a better education than what they offer now, yet at that time the schools in other areas, according to the national survey, were better, but then the latest survey that came out showed that in New York City, compared with the rest of the States, and they made a comparison with the southern states, that they are behind the southern states in education, in elementary education.

Q Is it your opinion that the public schools here in Scotland Neck and in Halifax County were giving education superior to that of the private schools that are growing up in and around this area?

A I would hope so. I have not investigated any of the private schools. The only private school that I have any information about—the Wake Forest Academy. And I believe that they will eventually have superior education with the system that they are employing.

Q From your experience as a school board member I believe you have testified that the schools will be ready to open the latter part of August?

A Yes.

Q And would it be detrimental to make changes in the plans for the school openings after they open in your opinion during the school year?

A During the school year?

Q Yes, sir.

A I mean what—could you be more specific?

Q Would it be detrimental to switch the Scotland Neck Unit back to the County Unit or to make any major changes during the school year?

A During the school year? . . . Let's see. I believe it would.

Q I ask you this: if in your opinion it is detrimental to switch children from one classroom to another or from one school to another during the school year?

A During the school year, I believe so.

Q And I ask you if you do not know of many occasions where men who are authorized to change jobs during the school year actually leave their wife and children there in order that the children may complete their schooling in the same schools?

A Let's see. Do I know of any—

Q Do you know of any occasions where men who have to change jobs during the school year possibly leave their wife and children to live in the town from which they have transferred so that the children may complete the school year in the same school?

A I have known of instances where this has occurred. I don't know of any that are presently, now, but I have known this to occur, that some people who may move out of a district—I have known where they have gone so far as to allow their kids to stay with someone else to allow them to continue their education in a particular system that they had started, and rather than to transfer them.

Q I will ask you if the City of Scotland Neck Board, in adopting that the Brawley students in the tenth and eleventh grades be allowed to stay at Brawley, if there

wasn't consideration given in that action to whether changing the students to Scotland Neck School might be detrimental to or interfere with their education?

A Right. This is the position we took. This is why we allowed the freedom of choice. We decided it would be left up to the parents and to the students since, under the State law if you are fifteen or over you can make your own choice of school—to make their own decision as to whether it would be detrimental or come to Scotland Neck or to Brawley. However, from one to ten we don't believe they should have a choice, and as far as Scotland Neck City is concerned, they are assigned.

MR. CREW: That's all.

EXAMINATION BY MR. KENNEDY:

Q Mr. Powell, there are four board members and one chairman on the Scotland Neck City Board?

A Yes.

Q Are three of the members and the chairman white persons?

A Yes.

Q What is the T and I project that you talked to Mr. Josey about?

A The T and I project is a house that were built by federal funds. They allotted federal funds for crafts whereas they taught students carpentry, bricklaying, and so forth, and they built a house in what they call the Brawley Heights areas, right across the street from Brawley, and this house I understood was for sale.

Q What students or what school built that?

A This was built by the Halifax—it was built by all the students, white and black, from the Halifax—this area, the high school students.

Q Both Scotland Neck and Brawley?

A And Brawley, right.

Q Is Scotland Neck this fall going to have a T and I program? Was that the trades and industry—

A Trades and industry. No, they won't have it this year.

Q Are they going to have some kind of vocational program?

A Yes, they will have vocational—vo-ag and home economics I believe.

Q Are they going to have a course called I.C.T., Industrial Cooperative Training?

A I don't believe so. I would have to go back to the records and check that.

MR. KENNEDY: I don't have any further questions.

MR. JOSEY: I believe that's it.

(FURTHER DEPONENT SAITH NOT)

* * * *

F. BOYD BAILEY

Being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. BOURNE:

Q Would you state your name and occupation for the record?

A F. Boyd Bailey, Scotland Neck City School.

Q How old are you, Mr. Bailey?

A 34.

Q What is your—where—are you originally from North Carolina?

A Yes, sir. Martin County.

Q Did you attend school in Martin County?

A Martin County.

Q And what is your educational background after finishing the public schools?

A I attended Wake Forest College for one year, at the old campus, went in service, and while in service I attended Syracuse University, the Russian Language School. After coming back, after getting out of service, I completed the B.S. degree at the new campus of Wake Forest in Winston-Salem. I got my teaching certificate at East Carolina University.

Q When did you graduate?

A I graduated from Wake Forest in 1961 and from there I started working on my class "A" certificate. I suppose 1963. I—then I got my masters, probably in '64

—I'm not sure about the dates—from East Carolina, and I have completed my advanced principal's and superintendent's certificate from the same university.

Q How long have you been working in public education?

A Since 1961.

Q Can you outline for us the jobs that you have held in public schools prior to coming to Scotland Neck?

A Teacher, elementary school principal, assistant high school principal, and then elementary school principal again, and then into Scotland Neck.

Q Where were these jobs held?

A In Bertie County. All of them in Bertie County. Would you like to know the names of the schools?

Q Yes.

A My teaching, first teaching position was at Mars Hill in Bertie County and my first principalship was at West Bertie School, Bertie County. I was assistant principal at Bertie High School, Bertie County, and I was principal of Windsor Elementary School, Bertie County.

Q How long were you assistant principal at the high school?

A Two years.

Q And how long were you an elementary principal, both—counting both times?

A Five.

Q Five years total. For the record, when did you leave the Bertie County System and join this system?

A I joined—I started permanent employment here June 16th, and the Friday before that would have been the fifteenth, fourteenth—thirteenth was when I terminated my contract at Bertie County.

Q When did you first come in contact with persons from Scotland Neck concerning employment here?

A When?

Q Yes.

A I can't give you exact dates.

Q Approximately, your best guess or your best estimate.

A I was called by Mr. Shields concerning the position of superintendent, and it must have been the last of May.

I'm not sure. I'm sure probably correspondence would show that, but I'm not sure.

Q The first contact was by phone?

A By telephone.

Q Had you had any contact with persons here prior to that time concerning Scotland Neck Schools?

A No, sir.

Q Either officially or unofficially?

A No, sir.

Q May I ask what the first salary offer was that Mr. Shields mentioned?

A It was the State salary for superintendents at that particular time, which I believe was $714.00, and I'm not sure. If I had the salary scale, I could show you. Plus a supplement to make it—I believe it was eleven thousand eight hundred. And, now, if I have to have these figures exact, I'm going to have to go back to the minutes of the meeting here. It was approximately eleven thousand eight hundred dollars.

Q All right.

A Then it was renegotiated for—to bring it up fifty dollars per month because of the difficulty we were running into in renting, and it made it $12,450.00—I believe it was—and the mathematics may not work it out to that, but it's close.

Q And so you were going to make approximately $12,450.00 next year; you're making that now on a yearly basis?

A No, the contract—the contract read that the supplement that I would receive would be the difference between the State salary at that particular time and the stated salary, twelve thousand four hundred fifty. Now that salary has changed the State raised it, and now the salary would be—well, let's go back to the supplement. The supplement was running about $3800.00. The State salary was increased far beyond what anybody else, including myself, thought it would be and now we have agreed on the State salary, plus $2,040.00 per year.

Q Two thousand forty plus the State allocation, State minimum—

A Right.

Q —for this size?

A For this size unit and no experience, years experience.

Q And originally you expected to make thirty-eight hundred and the State—

A It was approximately thirty-eight hundred difference between the State salary and the salary we had agreed upon.

Q Computed over what—twelve months?

A Yes. As I recall it's thirty-eight eighty—eighty-three—I'm not sure, somewhere.

Q The amount that they would give you?

A Right.

Q Now the first offer was to make it eleven eight?

A (Witness nods in the affirmative)

Q When did you negotiate that up fifty dollars more a month?

A I don't recall the specific date.

Q Well, approximately. Was it after you came here and you went to work?

A No, it was before we agreed on a contract, before the contract was agreed upon. This, again, was agreed on, like I said, before I came and accepted the contract.

Q How much money were you making as principal of Windsor Elementary?

A This was ten and a half months at approximately nine thirty per month.

MR. JOSEY: What was that figure?

A Ten and a half months for approximately nine thirty per month. Now, here again, I haven't spent enough time memorizing the salary scale. I don't know —I don't pay that much attention to it. This is approximately.

Q Right. And that was what you made your last year there?

A Right. And, of course, that salary is based on the number of teachers and number of years' experience.

Q I think you said you had, of course, for that contract year you would have had four years' experience, was going into the fifth year—four years' principal experience?

A Right.

Q Plus the—

A The number of teachers involved in that particular school.

Q How many teachers were there?

A Twenty-two, counting librarian and principal.

Q Would the figure $714.00 a month, computed on an annual basis, have given you a smaller salary than what you received as a teacher last year?

A Something around eighty-five hundred.

Q And as a teacher you would have received, of course, approximately ninety-three hundred, plus four fifty, $9700.00?

A (No answer)

Q You haven't figured it out?

A No. Not as a teacher.

Q You don't know what you made last year as a—

A As a teacher.

Q As a principal?

A No, I could not give you the exact figure. As I said, it's approximately nine thirty, as I recall, times ten and a half.

Q And that salary is based on a ten and a half month basis every year?

A Right, to that school, if you kept the same number of teachers and the same principal. The number of teachers determines the contract on the State base.

Q Was there any supplement?

A Travel.

Q Travel supplement?

A Right. And I received $26.00 per month.

Q How long is your contract for with the Scotland Neck School System?

A Two years, in addition to the—my contract—most of the time your contract begins the first of July. Mine began the middle of June. So it will be two years and a half month.

Q Were any representations made to you before you signed the contract as to what your—how you would get your salary should the Scotland Neck School System be declared unconstitutional?

A No. I didn't question it. They couldn't tell me I'm sure, so—

Q Have any representations been made to you since that time by members of the Board or Mr. Josey, or—

A No, I don't—as I recall, I don't think so. No, I don't think so.

Q So that hasn't been discussed?

A Well, not really. Specifically, figures or pay or anything. I have no idea how it would be paid. My wife might be concerned. I'm concerned of course, but I haven't been concerned enough to investigate it.

Q You said there was difficulty renting here. Can you explain what the problem was?

A No houses.

Q Just no houses?

A Well, either a few houses or having to build, and interest rate in building is rather expensive.

Q The housing market pretty tight here?

A I would think so.

Q That was the reason you renegotiated?

A Right.

Q Were you aware of the—before you were contacted by Mr. Shields were you aware of the problems which the County School Board had encountered with desegregation of schools and the negotiations they had had?

A Which county?

Q Halifax County?

A No. I could assume from what you read in the paper, but actually officially, no.

Q But you were aware of it from newspapers?

A I was aware of it in my own hometown, too.

Q Were you aware of any controversy surrounding the setting up of the Scotland Neck School?

A Maybe I can answer it this way: when I was contacted about the job, the position was legal; the unit was legal; and that is as far as I went. I accepted the job with the idea of running it as a superintendent.

Q Well, I understand that, but is it also correct or incorrect to assume that you had read about the Scotland Neck bill in the Legislature and that you knew generally

the—some of the history of the school system, of it as an independent unit?

A I was aware of the creation of the Scotland Neck Unit from reading it in the papers. I had visited Scotland Neck gym before, because the school in which I had an interest, or where I had been assistant principal, they were in the same athletic conference. I had visited here.

Q Was that last spring?

A Or this past spring or fall, or last fall, or several years ago I guess.

Q But not in the winter or spring after the bill was introduced?

A No, basketball was over at that time I think. No. And I didn't come to the baseball games.

Q When you first were contacted by Mr. Shields, now, did you come up here and become interviewed by various persons here and interview them about the—concerning the school system?

A We set a time, about which we could talk with the Board, and that is what I did. I talked with the Board.

Q When was it approximately? Was the first meeting in June, the first of June or the last of June?

A It may have been the last of May or the first of June. I don't recall.

Q Around the first of June?

A I would say so, probably.

Q Was it around this time that you renegotiated your contract of fifty dollars a month because of rental problems or had you looked into the rental problems at that time?

A Well, after we had more or less agreed that I—and I had agreed that I would be interested in the position—as I recall we had set the salary first and then as we—Mr. Shields took me around and we looked for places to rent and he found out that they would be rather high, and when I went back and discussed it with my wife, then this is when it was renegotiated.

Q So it was after you came up here?

A Yeah, right.

Q When you first talked to Mr. Shields over the telephone did he inform you of any specific goals in terms of curriculum or plans that he and the board hoped and wanted you to implement?

A As I recall, we discussed—he informed me that the creation of the unit was established and they were interested in talking with me as a possible candidate for the job of superintendent. Now whether or not he got into the goals by telephone I'm not sure.

Q Do you recall at the meeting that you attended here any goals set forth by the board, either officially or unofficially, or by any of your conferences with them concerning the Scotland Neck School System?

A Well, perhaps some of these things—well, for example, the curriculum change—I think they had more or less agreed they could not go into wholesale curriculum change, and I don't recall whether it was at this meeting or another meeting that we mentioned the possibility of a curriculum study.

Q Was that suggested by you?

A Yes. A very effective means of finding out where you are and what you're going to do in the field of education.

Q Were any other specific goals set up for you when you first came here or set by the board?

A I don't recall any.

Q Policy set by the board that they wanted you to implement essentially?

A Such as?

Q Well, curriculum changes is one, changes in staff—did they want you to bring in new programs and, if so, did you have any ideas precisely what kind of programs they wanted—that sort of thing?

A As I recall, not—of course, in being a new unit we had to reissue contracts, and this was hiring of personnel, but as far as dictating a type of program that would in turn dictate a type of personnel, no.

Q Was there at that time discussion with you about the curriculum that Mr. Shields and some of the others may have been aware of that was taught at Tryon School?

A As I recall, Tryon was mentioned as a possible program that we could take a look at, yes. Now, whether it was at this meeting or a subsequent meeting I don't know.

Q Did you see the curriculum that was used at Tryon?

A I haven't been there yet.

Q They didn't show you any documents about Tryon?

A No.

Q Was your desire to have a curriculum study program carried out related to two things, one, determining what sort of job is done now and, two, determining the interest areas, the capacities of the students here so as to determine what changes may be made—is that what a curriculum study program is?

A A curriculum study encompasses many things in my way of thinking. Now you can take a hundred curriculum studies and you'll not find one carbon copy of another. To me a curriculum study would encompass the areas of instruction, and that involves the curriculum itself. It involves utilization of personnel. It involves utilization of finances. It involves extra-curricular activities. It involves the—well, it involves students, parents, businessmen, lay people, other school people, all working together to determine what we've been doing, what things are effective for our unit, what things are not effective for our unit—any changes that should be made in relation to the goals of education for the children.

Q Are—

A So it may or may not indicate a change if we find from our study that this is what it needs to be here—

Q Is one part, and perhaps a major part, of a curriculum study the determination of the backgrounds, interest areas of the students and the career goals of those students in order to determine what sort of program would be best for them?

A Now, are you talking about the students now enrolled and will be enrolled in the future and—or are you basing it on the pupils in the past?

Q Well, whichever is relevant. I'm asking you.

A I think certainly it should reflect the interest of the students and the needs of the student, certainly.

Q Were there any statements—or have there been any statements made to you concerning the interests of the students by the board, that the curriculum does not meet their interest, does not serve their interest?

A I think any time you have a board of education there's going to be mention of interest of students because there is what they are interested in. Now specifically as to whether or not we should eliminate one thing or the other, now, it was brought out—I don't know at which meeting—that trades and industries probably would not be offered in the school system. We may find in the curriculum study that this does need to be offered and reinstitute it.

Q Is it going to be offered next year?

A No. I think, according to the records I find, there were two students enrolled in that from Scotland Neck last year. I believe that's correct.

Q Is that the masonry and carpenter course?

A Carpentry, right.

Q When you were first contacted by Mr. Shields and by other persons here, did they know how many pupils would be in the school system here, approximately?

A They may have known it but the first time I was contacted it was not mentioned as I recall.

Q When did you subsequently discover that number, approximately, for the first time?

A I believe—I'm not sure, but I believe when I was over here for an interview. I'm not sure. I think it was.

Q And what was the first number that you remember being quoted?

A A thousand sixty-seven I believe.

Q Approximately a thousand?

A And seven of those were from a private school. Enfield I believe.

Q You mean they knew that there would be approximately seven pupils attending school here next year, 1969-70, who attended Enfield School last year?

A From the choice forms, I suppose, that has been sent, and this is the information I had.

Q That Enfield School or Enfield Academy?

A I don't really know.

Q At that time had the Scotland Neck School Board acquired the use of the junior high school campus here?

A When I was first contacted?

Q Or when you came. At what time did they acquire it?

A I don't know. That's in the minutes. I don't recall the specific date. It was not acquired when I first came. I think this was negotiated afterwards, but it's in the minutes, far as the dates are concerned. I don't know.

Q Feel free to look it up . . . If you know approximately when it was?

A The State Board of Education at its meeting on June fifth, 1969, approved the extension of the boundaries of the Scotland Neck City Administrative Unit to include an area now located in Halifax County Administrative and described by metes and bounds in a resolution approved by the Scotland Neck Board of Education on May 26, 1969, and by the Halifax County Board of Education on June 2, 1969.

Q So that was accomplished essentially before you came here?

A Right.

Q When you first talked to Mr. Shields, or when you first interviewed—well, when you first talked to Mr. Shields you recall whether he informed you of any alternative plans to the acquisition of that school?

A In the first conversation?

Q Yes, sir.

A By telephone when he called me about the job? No.

Q Have you had any conversations with anyone here since about the alternative plans which had been developed?

A We had discussed in board meetings two possibilities: lease or deeding the property from Halifax.

Q Do you recall any other alternative that would not have involved—pertaining that school building?

A No.

* * * *

Q Have you heard the view expressed here in Halifax County that the majority of pupils in the County schools will be Negro if pairing or zoning or some other total desegregation plan is used?

A I haven't heard any specific comments, but you can look at the total population and you could assume this.

Q Do you have any feeling regarding—concerning—either educational or personal, concerning the desirability of being a principal or teacher in a majority Negro school?

A I could—I could function as a teacher or as an administrator in that position with the same desire and enthusiasm that I have for this one. It wouldn't make any difference.

Q Have you discussed—strike that. Are you familiar with the School Survey of Halifax County of 1968 done by the Division of School Planning for North Carolina, Department of Public Instruction?

A I have seen it but I have not read it and I have not discussed it.

Q Have you discussed with any person the possibility of pairing schools?

A No.

Q In Halifax County?

A (Witness shakes head negatively)

Q Have you heard it discussed?

A No.

Q The possibility of pairing Brawley and Scotland Neck School?

A (Witness shakes head negatively)

Q What is the number of required courses for garduation in the Scotland Neck School, high school?

A I'm not sure I can tell you. I would say it's eighteen, but I wouldn't—I'm not sure.

Q Is the State minimum sixteen?

A Pardon?

Q Is the State minimum sixteen?

A I'm not sure of that either. I've not checked those requirements recently. I do know that many of the transcripts that we have filled out for the students for—in fact, the majority of them—have more than eighteen,

so it may be that the County requirement is more than eighteen. I don't know.

Q Are you aware of a general movement on the part of educators in North Carolina toward consolidation of high schools in the interest of creating broader and more comprehensive curriculum?

A Yes. We have found that this has been occurring. Of course, now, the broader curriculum is only part of it I would think, as the—the size in itself is only part of the situation. Educators will also tell you that what happened in one particular location is not necessarily good in another, so these are—the criteria that you use to determine the effectiveness of a school—you can't use one here, and you can't use one in this zone area. It has to be made in a particular area I think.

Q Are you aware generally—I think you said you have not read this County Survey done by the Department of Public Instruction?

A No.

Q But are you aware generally that it proposes on an interim basis consolidation of the several high schools of Scotland Neck, including Halifax County, including the Scotland Neck School?

MR. JOSEY: I object. He said he hasn't read it, he hasn't discussed it. I think that is completely clear.

A I'm not aware of it, no.

Q (Mr. Bourne) He is not aware of it. Are you aware of the Governor's Commission Report?

A Yes, sir.

Q Are you aware that one of the recommendations in that report was to promote the merger of schools, high schools, within school systems and of—in limited cases school units in order to create a comprehensive high school with at least a hundred pupils per grade in each high school?

A I'm aware of the context but I'm not—I have not scrutinized it close enough to make sure that this is a definite recommendation.

Q The view which—but you are aware of it, of that, that is, the general view that is promoted by the—it

may not be a specific recommendation, but it is a general view that is promoted by that report?

A I think this is the general overtone of that report, yes.

Q Do you know of any organized group of educators in North Carolina who disagree with that—is a proper goal to be promoted?

A I don't know of any.

Q Do you know of any—anywhere else who opposes that sort of—

A A group?

Q Yes.

A No.

Q Are you aware of the formula of three times the number of courses in a high school necessary for graduation is a recommended minimum for—

A Not specifically.

Q —for a comprehensive high school?

A As a—that formula, no. Are you talking again about the comprehensive high school as recognized by Conant?

Q Yes.

A No, I'm not aware of that specific formula.

Q Were you aware that North Carolina officials in this Survey and in planning and in the Governor's Report uses that?

A I'm not aware that they used that specific formula, but they did base some of their work on Conant's report, and of course it would come from there.

Q Do you know of any educators who basically disagree with that formula?

A I don't know of any.

Q In any school?

A No.

Q If the required number is eighteen in Scotland Neck, then would that not mean that this high school here should have according to that standard at least fifty-four courses?

A According to the formula, if the formula you have given is correct—and I haven't seen it.

MR. JOSEY: In other words, three times eighteen is fifty-four. He can say that.

A I'm not disputing the formula.

MR. JOSEY: All—I think all he is doing is multiplying three times eighteen and coming up with fifty-four, which I think most of us can do.

Q (Mr. Bourne) Have you in your letters any correspondence concerning the creation of the Scotland Neck Unit, which you have in your possession or which the Board has in its possession and used in its executive meeting?

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) During your connection with the Scotland Neck School System could you tell me about any basic changes in your procedures for employing teachers for the 1969-70 school year which would differ from those which the County probably employed, or the County employed last year?

A I could not because I'm not aware of their procedure. I would assume it's according to the way the other counties do it, but I'm not aware of their procedure.

Q How many teachers have you now hired for the next year?

A Oh, if it has to be exact I will have to call the secretary. I would say it's approximately thirty-five.

Q We'll take a break and get back to that a little later. Do you know how many of those taught here last year?

A Specifically, exactly, no.

Q Do you know how many are new?

A Well, if I knew that I could subtract it, but I don't know.

Q Do you know how many have—do not have "A" or "B" certificates in the State of North Carolina?

A No.

Q Do you know of—any of them do not?

A Do not have "A"—oh, I'm sure some of them do not have "A", but exactly how many I couldn't tell you.

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Is it correct that approximately thirty-six or thirty-seven teachers have been contracted with by the Scotland Neck School Board to teach here in the 1969-70 school year?

A Yes.

Q Is it correct that approximately eight of these persons did not teach in the system last year?

A Yes, sir.

Q In this school, in one of these schools here last year, or in the Halifax County schools?

A (Witness nods head in the affirmative)

Q And approximately twenty-eight of them, or twenty-nine, were under contract with the Halifax County Board and taught at Scotland Neck?

A Yes, sir.

Q And are going to teach there again?

A (Witness nods head in the affirmative)

Q Are you generally familiar with the name of the teachers?

A Yes.

Q Lizzie Johnson White Partin?

A Yes.

Q Are you aware of the fact that she taught in the public schools for approximately thirteen years and has a B-6 rating?

A I have no idea how long she's taught, nor of her rating.

Q Are you aware that Edna Godwin Herring has a B-6 rating and has thirty-eight years of teaching experience?

A No, I'm not aware of that.

Q Were you aware that these two women are going to be hired and working for your school system?

A They are under contract.

Q What are the race of these two women?

A White.

Q Are you aware that Mrs. Cleo Turner is under contract?

A Yes.

Q With your school system?

A (Witness nods head in the affirmative)

Q Do you know where Mrs. Turner taught last year, what grade here in the school system, or in what school?

A She taught either seventh or sixth. I'm not sure. Maybe fifth.

Q At the junior high school?

A If she had taught fifth or sixth, she would have been—seventh or eighth, she would have been at the junior high. If she taught any other grade, she would have been at another school.

Q After you know that now do you plan to assign her to a different grade or do you know where you're going to assign her?

A Our plans now—we have sent out choice forms which have been sent to each teacher for—and got letters to the applicants. These forms list three preferences per grade level, three preferences for subject area, and we will try insofar as possible to assign the teachers where they wish to teach in so long as they are qualified. We will try first choice, if they—if we can't get first choice, we will try second, but they have not been specifically assigned.

Q Do you have any idea when you will be able to assign the teachers?

A No.

Q How long ago did you sent out these choice forms?

A It must have been about a month, approximately.

Q How many persons do you anticipate having under contract by the time school opens for teaching positions?

A I can't give him a specific answer on that.

Q Do you know how large a faculty you want to have or—

A It will be approximately 42, including special education allotment—I mean which we have had—which was not here before.

Q How many people are you allotted under special education?

A Two. Two positions.

Q And so if you have approximately thirty-six or thirty-seven people now under contract you lack three or four—a few teachers of having your—

A We lack several.

Q —of your full—plus your special education teachers; you—

A Right.

Q —you haven't employed them?

A No.

Q When do you—do you employ them or are they assigned to you—these special education teachers?

A We employ them. They are recommended by me, approved by the Board of Education.

Q Are they paid out of local funds or who pays for them?

A State.

Q Do you know what procedure was used before you came to the Scotland Neck System generally; do you know what procedure for employing teachers here in the school system who had taught here before?

A No, I'm not aware of the procedure that was used in this system before I came.

Q Were any of the persons under contract with the Scotland Neck Board before you came here, any of these thirty-six or thirty-seven people?

A Before I came?

Q Yes, before you took your office.

A Applications had been sent to these people but I'm not aware.

Q That is what I mean—I meant by procedures.

A Applications had been sent to them.

Q Local teachers?

A Yes.

Q And these were formerly hired by the Halifax County Board?

A Because this is the first year the Scotland Neck Board has existed. Are you talking about formerly hired in previous years?

Q Yes.

A Yes.

Q And applications were sent out to all the local teachers?

A The ones teaching in the schools. I think this is correct. I'm not absolutely sure. I think the ones teaching in the school at that particular time.

Q And that is your understanding?

A Yes.

Q And some of them had returned their contracts, or not?

A Some of them had, yes.

Q Had at that time or—

A No.

Q You had several vacancies, I think you indicated. Are you seeking to employ teachers from the various—who have graduated from the various colleges, universities in North Carolina, in this area?

A We're seeking them from any source as is indicated by a recent ad in the paper.

Q Have you sent letters to the University of North Carolina, Chapel Hill, to the various State teachers colleges?

A Not to all, no.

Q To some of them?

A East Carolina. We have contacted people from other areas, but not specifically to their placement bureau.

Q But you have contacted East Carolina?

A Yes.

Q What other universities have you contacted?

A Well, actually, we've been doing it more or less on an individual basis, in response to the ad that we received, and I have not really sent formal letters to these other universities. And I recently called the placement bureau at East Carolina.

Q You have not contacted any predominantly Negro schools, is that correct?

A Not in fact sending any formal letter to any—any formal questionnaire to a university. Was by telephone to East Carolina approximately three days ago.

Q Do you know what your pupil-teacher ratio will be next year?

A I can give you an approximate figure perhaps, and this depending upon whether or not we're able to fill all the positions. I would guess that in the elementary schools it will probably run about thirty. Of course, now, in the primary grades we will have to run it approxi-

mately twenty-seven. This is according to the State law. In other words, a teacher has been assigned to reduce the class load in the primary grades, and we're hoping that we can keep it down to twenty-seven. High school —if you count all teachers, the principal, librarian, all professional personnel, it will probably run somewhere around twenty-two, twenty-three, twenty-four.

A And if you don't count that staff but you take that staff out, do I understand that in North Carolina there generally are two figures counted: staff-teacher ratio and teacher-pupil ratio?

A What you normally—yes.

Q What you just recited was staff ratio and not pupil ratio?

A I'm not sure whether they—we'll have approximately 337 high school students.

Q And how many teachers?

A Including principal and guidance and vocational I believe it's seventeen.

Q For special personnel in your school system, such as principal—is the principal of your school employed yet?

A No he is not.

Q Are you offering a supplement for that principal?

A Well, yes. Twelve months employment.

Q Twelve months employed as opposed to—

A Ten and three-quarters.

Q Is what the State will pay?

A In this school, yes. This is a union school, and then the union school personnel are allotted differently from the elementary school or the high school.

Q So you are giving a month and a quarter supplement?

A Well, actually, it's an extra month. We have agreed to pay one extra month. In other words, it will be eleven and three-quarters as opposed to ten and three-quarters, and travel is negotiable.

Q Will that principal be a teaching principal?

A No.

Q Full-time?

A (Witness nods head in the affirmative)

Q And will you have an assistant principal for the junior high school?

A Not an assistant principal. A building principal, and the building principal has not been named yet.

Q Who was the building principal there last year, do you know?

A I would have to guess. Mr. Swain.

Q Is he under employment here now?

A No.

Q Do you know where he is employed?

A It is my understanding that he is working with the Halifax County Unit.

Q Is Mr. Swain white or Negro?

A He's Negro.

Q Will you pay the building principal a supplement?

A I'm sure something will have to be worked out. We will not be—we will have to negotiate something similar to the State salary, which is approximately forty per month. They have a salary set up for this, but we will not be allotted a supplement for a high school principal and the building principal. The State will pay so much here per teacher, six teachers, eight teachers, and depending on how many you had, and that would dictate the salary that building principal would get, as opposed to a classified principal.

Q So the County will have to pay some—

A No, the City.

Q The City will have to pay some in addition to what the State—

A Actually the State will pay only the salary of that person as a teacher.

Q And it will run approximately, maybe run—

A Forty dollars a month.

Q Forty dollars a month. Now will these, both the building principal of the junior high school, plus—and the principal at the high school—I guess grades one through six—will be the only two principals or quasi-principals or assistant principals in the entire school, is that correct?

A Yes. I would like to think that the principal would have the prerogative to name someone as assistant principal to act in his stead when he is on an emergency, someone to be in charge, but as a paid position, it would not.

Q Would your building principal in the junior high school campus teach a full class load, teach full time?

A Right. Now part of the responsibility, I might add this: part of the responsibility of the non-teaching principal will be supervision of teachers in the junior high.

Q Now I think you mentioned guidance personnel. Have you employed guidance—or a guidance teacher?

A No. I have an interview set up for tomorrow afternoon.

Q Was there a guidance teacher there last year?

A Yes, sir.

Q Full time?

A I'm not sure, but I guess so.

Q But there was one?

A Right.

Q Is this teacher's salary going to be paid entirely out of State funds?

A We are hoping that this will be a State allotted position. We are anticipating the paying of a local teacher—well, paying a teacher from local funds, and if it's necessary we may do that.

Q If the State allotment doesn't come through?

A We've got a State allotment as of now. She would have to be a part of a State allotment. The thing that we're going to have to look at is the eacher-pupil ratio in determining whether it's full time, part time, or what have you.

Q You mean whether the—

A The guidance counsellor.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Summing up what you just said, am I correct in understanding then that you do plan to have someone working in guidance in the school, in the

high school, but you don't know whether that person will work full time or part time in guidance?

A That is our intention, and if the person is available.

Q If the person is available, they will work full time but if you need the teaching time, then that person will have to teach part time?

A We're planning to hire a guidance counsellor if the person is available, and that guidance counsellor will either teach or serve as a guidance counsellor full time or part time.

Q Who is the person that you're seeking—Mrs. Wilson?

A No. This is—this is an applicant and—

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) So you haven't hired a guidance counsellor as of yet?

A No, sir.

Q Now, have you employed or are you seeking to employ a speech therapist?

A No.

Q For the schools?

A No. This is a possibility. But in the two special education allotments, this is an area in which they can be used. We're going to have to take a look at the needs the best we can in the short time allotted to determine whether or not it will go into special education or educable mentally retarded. And this is where it looks like according to the records that we will need these two special teachers, and not in area of speech. This, incidentally, will be brought about in our curriculum study, as to where these special teachers will be needed or utilized.

Q Now have you employed or are you going to employ an instructional supervisor, one or more? If so, how many?

A Now; supervision of instruction will be a primary responsibility of the non-teaching principal—all grade levels.

Q Is there a State allotment for instructional supervisor for the Town?

A Or this unit?

Q Yes.

A Not that I'm aware of, no.

Q Have you inquired about that with the State people?

A Supervisory allotments have been made and we didn't get one.

Q What arrangements have you made for nursing assistance or medical care or examinations, and that sort of thing?

A Well, actually, I've made no arrangements at this point, but I would assume that we would work with the County health nurses. I assume that they work this way, as they did in the County I was with previously, plus some of our own trained personnel, including coaches and things of this nature.

Q And these will be people affiliated with the County Board of Education or the County health department?

A Halifax County Health Department I would assume.

Q You do not employ a nurse to work for the school system?

A No. I have not investigated it however.

Q Now I think you indicated a little earlier that you planned not to have a trades and industries program. What kind of vocational education program do you anticipate?

A Vocational allotments have not been made from the State. The State is waiting on informtaion from the federal government. We anticipate that home economics, vocational agriculture and I.V. will continue to be offered as it was last year.

Q What is I.V.?

A Introduction to vocational education.

Q And beyond that you will have no vocational program?

A No. That is what we had last year, and other than the trades and industries, and we anticipate that the same positions will be offered this year.

Q Now as to special programs I think you have indicated that you hope to use your special education teachers for working with educable but mentally regarded children?

A (Witness nods head in the affirmative)

Q What sort of program will you have—this is a developmental reading sort of program?

A No. Your educable mentally retarded program is designed for students who operate within a certain limit of mental ability. I don't think I need to indicate what that is. We anticipate from—for the needs of the students that we have seen through the records that we will probably use, if we're able to employ the personnel, one special education teacher in the area of primary students, possibly ages ten, eleven, twelve, thirteen. A second possibility is moving into the area of junior high and working it in with our vocational program of agriculture and home economics, and we are getting help from the developmental clinic in Greenville—the lady that was there yesterday when you came in, devising a program that will help us meet these requirements for vocational education, for the educable mentally retarded. This is a possibility; it is not certain.

Q Are you anticipating employing funds provided by the Elementary and Secondary Educational Act?

A Yes.

Q Where will the funds be used?

A We're anticipating—in fact, I'm supposed to take the project to Raleigh Friday for examination and I hope approval. We will anticipate an estimated eighteen to twenty thousand dollars for ESEA at this time. Once—from that we are hoping to develop—in fact, our project is being submitted in the area of developmental reading or remedial reading. The funds that are not used for the instructional program of developmental reading will go into providing lunches for indigent children.

Q Do you anticipate this will provide enough money to employ an extra teacher?

A This has to be part of the money. The salaries of the teacher comes from that eighteen to twenty thousand.

Q Do you anticipate more than one teacher under this?

A No, not this first year. We are anticipating one teacher.

Q And the remainder of that will go into the school lunch program?

A Right.

Q Do you know how many pupils, or poverty pupils, you have in this area who qualify under Title I of ESEA?

A Exactly, no. We are making an estimate: seventy-five students will—approximately seventy-five students will receive instruction in the developmental reading program, and we are estimating approximately 225 students will benefit from the free lunch program.

Q Do you know the race of these students?

A No.

Q Do you have any idea what the race of them is, or a general idea of what the race of most of them is?

A Of the ones we have I have no idea. We have not made this list.

Q Now, I believe you stated that you were going to drop the trades and industries courses that have been offered. What other curriculum courses do you anticipate for the 1969-70 school year?

A Other than what we have mentioned with the special programs, I don't know of any now.

Q Were these special programs not available last year either with special education or ESEA money?

A I'm not aware of whether special education was taught last year here or not. I don't think developmental reading was taught as a regular nine months program. I understand they do have the program offered during the summer.

Q Are you planning to carry on the music program which was used last year?

A The music position has—I recommended to the Board of Education, as I recommended to the Board of Education was temporarily detained until we could determine once again our student-teacher ratio, and we have not as yet made a decision as to whether this would be re-employed or not.

Q Have you—do you have to have a special kind of teacher for music instruction, and have you employed such a person?

A No, we have not employed a music instructional teacher. They are specially trained.

Q You haven't employed one.

A We haven't employed one.

Q So you won't be able to determine that until you determine whether you can be able to afford one from the point of your pupil-teacher ratio?

A That's right.

Q How many courses do you plan to offer here next year?

A I haven't counted them. They're on that information sheet I gave you yesterday.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) How many English courses will be offered?

A Four.

Q In the school next year—how many math courses will be offered?

A Six.

Q Are you including in that number business math, or not?

A (Witness nods head in the affirmative)

MR. JOSEY: Answer yes or no.

A Yes.

Q How many science courses will be offered?

A I'm not sure whether this—this was—I have a feeling one of these chemistries should have been chemistry two—chemistry one and chemistry two. I'm not sure whether it should have been or not.

Q Well—

A That could be the reason for repeating it, but it still maybe just chemistry one.

Q Well, if you want to you can count it either way and then just tell us how you counted it, you know, so that we will have it on the record.

A We'll count it just one way—three. Now there is a possibility, according to preliminary searching of the

records, there is a possibility that we can offer physics, and this will be something different, and heretofore I think they've been alternating the courses, and there's a good possibility there will be enough students to offer physics, and if physics is counted, there will be four.

Q Do you offer biology this year?

A Yes.

Q How many social studies courses will you have?

A Five, and we are not counting I.V.

Q How many French courses?

A Three.

Q Any Spanish or Latin?

A No Spanish, no Latin.

Q Any other languages?

A No, sir.

Q How many business courses?

A Five, not counting business math.

Q Agriculture courses?

A Six, if you count small engines and welding—correction, five if you count small engines and welding, and we usually do isolate that as a course, plus the possibility of vocational training with special education, it would be five.

Q If you count small engines and welding?

A Small engines and welding.

Q Plus vocational education?

A A possibility. This is not on the sheet.

Q How many home economics courses?

A Five, which includes family relations and also the possibility of special education with the girls.

Q Five, including—

A Family relations.

Q Family relations?

A Plus the possibility of vocational training for the girls similar to that of agriculture, or vocation rather than agriculture.

Q Trades and industries—I think you said you have none?

A Right.

Q Music?

A We are not sure. A course will probably be offered in the high school, and you count this one course even though it may be offered on various levels.

Q And physical education?

A Well, actually, there will be only two physical education courses as such, but physical education, one, involves all freshmen.

Q Any health courses?

A Health and physical education is—let me see.

Q Is that included in—

A Normally, you include it in physical education.

Q You include it in one or two?

A In one, in P.E. one.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q Now I believe if you add those up, do you not get the number of—what number do you get?

A I didn't—

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) When you add up the courses and the probabilities one way or another, you determined that you probably will have 39 or 40 courses, with the possibility of one or two more?

A Yes, sir.

Q Now, I believe you stated that when you first came here you believed that the total enrollment for the city system would be 1,067, approximately?

A That's correct.

Q Now have you revised that figure one way or another?

A Yes, sir. The revised figure is 1,029.

Q And do you know generally how that 1,029 figure has been arrived at?

A I'm not sure, but I think we took the indicated enrollment from the students, plus our tuition students, the ones who paid the deposit, and then we arrived at that figure. And this is the figure that has been agreed

upon as the exchange figure between the Halifax County and the Scotland Neck schools.

Q You say 'indicated', the figure indicated, by what—the number of pupils living in Scotland Neck? You say there was the possibility of an indicated figure plus the tuition.

A The ones who had indicated coming to Scotland Neck School.

Q They were coming in the past I suppose?

A The students who were enrolled in Scotland Neck this past year and indicated coming back next year.

Q Under freedom of choice forms?

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Now how many pupils were involved in this tuition group that have put up their deposits?

A Approximately 360 had made the deposit of ten dollars according to our most recent records. I think it was 35 yesterday, and then received about four more. Approximately thirty have not paid half of the tuition.

Q Do you anticipate that those persons may come across with that?

A Oh, yes. The dead line is not here. The second notice has been sent to them, people, indicating the dead line, and we still have time to go on that.

Q Your pupils who did not put in the ten dollar deposit but might desire to come here, and who would come across with the deposit at a later date, but prior to the dead line, would they be permitted to come?

A This is something we would have to discuss with the Board.

Q You haven't had any of those pupils come to you yet?

A No. Well, we have had one application of a student formerly living in Rocky Mount who has moved to Scotland Neck. He's seventeen years of age. And this will be discussed at our Board meeting next Wednesday.

Q Does he live in the town or outside?

A He has moved in the town of Scotland Neck and he has requested to come here, but no action has been taken,

but I think the agreement has been that the Board stated that these will have to be handled on an individual basis, and this has not been presented to the Board, but will be next Wednesday.

Q But except for that individual and the possibility of a few more, you don't inticipate any large number of changes, do you?

A I don't foresee any, no.

Q Now was this figure, 360, the one you plugged into your 1,029, to get your figure of 1,029?

A I believe so.

Q Now would you subtract one thousand—from 1,029, 360, and tell me how many pupils residing in the Town of Scotland Neck are going to go to the school?

A It appears to be 669.

Q Would be approximately 669 pupils?

A (Witness nods head in the affirmative)

Q Living in the Town who will go to the school?

A Yes, sir.

Q Now, there are I believe roughly 700 school-age children living in the Town of Scotland Neck. Do you have any reason to question my figure?

A Not if they are juniors or seniors.

Q No, 700 total number of school-age children who live in the Town of Scotland Neck, including the juniors and seniors who might not go to your school, do you have any reason to question that figure?

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

A I don't know about the 700.

Q (Mr. Bourne) Is it not true that approximately forty students who were last year in the tenth and eleventh grades and who will be juniors and seniors this coming year have chosen to go to Brawley High School under freedom of choice?

A According to the information I have that would be approximately correct.

Q Now do you know of the 669 pupils who live in the Town and who will be going to Scotland Neck how many of those are white and how many of those are Negro?

A Exactly, no; sir.

Q Approximately?

A I can tell you according to our figures the total number. I think I can. The total number of whites and the total number of Negroes. And then give you an estimate of approximately how many of the Negroes are tuition students.

Q All right.

A And we can subtract. According to our records there are 258 Negroes in the total enrollment of 1,029, and I would estimate—as this is all that I can do, because our tuition notices did not indicate race—that there is less than five percent, and I have used the figure four percent Negro tuition students. That would mean ten. So that would leave a total of 248 Negroes within the city limits of Scotland Neck and ten outside. And I repeat once again—the four percent is an estimate.

Q Now do you also have the freedom of choice forms in your possession for the children who chose to go to Scotland Neck School last year under the free choice period which was run by the County Board of Education?

A I don't believe I do. If I do, I haven't run across them. I may. I don't know.

Q You haven't used them?

A I haven't used them.

* * * *

Q (Mr. Bourne) Now, I believe you have told us that you've—approximately 360 students will be coming into the school system next year from outside and that of these roughly ten are Negro and the remainder, approximately 350, will be white students?

A That is approximately correct.

Q Approximately?

A (Witness nods head in the affirmative)

Q That is your best estimate at this particular time?

A Yes, sir.

Q I believe you have also—strike that. Are you aware of the fact that Halifax County Unit, prior to the creation of the Scotland Neck system, had approximately—was approximately 78 percent Negro?

A I am not aware of that, or was not aware of that.

Q Have you become aware of it?

A As of now?

Q Did you know there was a majority Negro school district?

A I didn't know it as a fact.

Q Had you heard that?

A No, but I could guess, knowing a little bit about the geography of eastern North Carolina that it possibly would be.

Q Are you aware of—strike that. Will these transfers into the City Unit from the County change the overall percentage of pupils within the County—white versus Negro—within the City School System?

A Would you repeat that again, please?

Q Will the transfers from the County to the City Unit of these 360 pupils—350 of whom are white and ten of whom are Negro—appreciably change the percentage of white and Negro pupils attending the Scotland Neck Schools?

A It will change the percentage. Whether it is appreciable will depend upon the total number in the County.

Q In the City Schools. Will it change the City percentages from what it would have been?

A Yes.

Q Isn't that true, that you have testified that the City School System has approximately—strike that. Do you know the percentage of pupils attending the—did you know that approximately 400 pupils living within Scotland Neck and attending the schools here are white?

A I didn't know it, but I could gather—well, let's see. 669 minus 248.

Q And so, if there was approximately 400 to 248—white—to Negro in the City, roughly 400, maybe a little more than that, that percentage is now about three to one white to Negro, is that not correct, because of the transfers in Scotland Neck?

A That's approximately correct.

Q And if you round these figures off and you say there were approximately 400 white pupils who live in the Town and approximately 250 Negro pupils who live in

the Town, and who are going to attend the Scotland Neck School next year, without these transfers in, the school system would be roughly eight to five white as opposed to three to one, is that not correct?

A Would you repeat that, please?

Q The school system—would you read the question.

(QUESTION READ)

(DISCUSSION OFF RECORD)

A I can answer by saying approximately.

Q Yeah, approximately eight to five white to black. So by allowing these pupils to come in on a tuition basis, isn't that clear that the white percentage in the Scotland Neck Schools has increased from eight to five majority to about three to one majority?

A Yes.

Q Approximately?

A (Witness nods head in the affirmative)

Q Now, I believe you st ted, also, that there are approximately forty students who are going to be attending Brawley School?

A This is taken from the letter of correspondence. I have not counted them nor would I know where to count them really.

Q You don't have any idea how many pupils there are that live outside?

A Outside?

Q Who live inside, but who are going to Brawley next year?

A The only thing that I would know anything about is forty. That was in the correspondence. I'm sure there are probably in that box of cards—

Q Do you know how many Negro pupils live in the Town, how many Negro school-age pupils live in the Town?

A Did you give that figure awhile ago?

MR. BOURNE: I may have. Off the record.

(DISCUSSION OFF RECORD)

A I might say I don't know, but you mentioned it awhile ago.

MR. BOURNE: It's around 300. It's 296. That is Overman's estimate.

THE WITNESS: I didn't know that.

Q (Mr. Bourne) If you don't know that then we will just skip it and go on. Are you generally aware of the fact that the Department of Justice and the County School Board reached an agreement last summer, in the sumfner of 1968, by which the County agreed to completely desegregate its school by the 1969-70 school year?

A No, I'm not aware of that.

Q Are you aware of the fact that the Department of Justice has a suit against the County School Board?

A If you're talking about the suit in which we are, we've been named, yes, sir.

Q To desegregate the County schools?

A Yes.

Q Are you aware of the fact that the transfer of these 360 pupils, approximately 96 or 95 of whom are white, into the Town from the County will change the black-white ratio in the County and in the Town—are you aware of that?

A Yes.

Q Are you aware of the fact that it will increase the percentage of whites in the Town system and decrease the percentage of whites in the County system?

A Yes.

Q Are you aware of the fact that—strike that. Have you obtained a legal opinion, or have you heard a legal opinion expressed as to the legality of transfers from one school unit to another where the effect of such transfer will be to permit pupils to move from schools in which they would be in a racial minority to schools in which they would be in a racial majority?

MR. JOSEY: I object to that. You're asking him a question which nobody, including lawyers, has ever heard about, and there is no way for you to further your investigation in the proving of this case—I mean way out. And I object to it.

MR. BOURNE: I have asked him the question.

MR. JOSEY: If you can interpret that question and have some answer to—ask him to repeat the question.

A Would you repeat the question?

(QUESTION READ)

A I have not heard of such a thing.

Q (Mr. Bourne) Now it is my understanding that there will be approximately 25,000 dollars raised by the additional tax which has been imposed on the citizens of Scotland Neck, is that correct? Is that your estimate?

A Approximately, yes.

Q Approximately how much money will be raised through the tuition if it's all paid?

A It'll be—I'm not sure I can answer that. I don't know the number of families. I haven't counted the number of families nor the number of children in each family.

Q So you couldn't really know how much money will be brought—do you know roughly, have you heard a figure quoted?

A We could perhaps give a—I could tell you exactly if I had my records down here.

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

A I would estimate, based on a hundred eighty-six families and a hundred twenty-five dollars per family, approximately $23,000.00.

Q (Mr. Bourne) Approximately $23,000.00. And so, that you would have in addition to your twenty-five or twenty-four thousand dollars from the County?

A That's correct.

Q Now what allocation of this money have you as superintendent of the Board determined to make of this extra money that does not come from either the County or from the State or from the federal government?

A An itemized budget has not been prepared for the use of this money. Of course, some of it will go perhaps —you're talking about the entire amount of forty-some thousand dollars—you're talking about?

Q Right.

A Some of it will go for supplements.
Q For 1969-70?
A Supplements.
Q For 1969-70.
A Yes.
Q You have offered supplements to teachers?
A My supplement, the principal's supplement, the secretary. We anticipate the study and this will come out. Also, in our curriculum studies we hope the feasibility of supplementing teachers. We will also have operation of plants, buying of materials, and things of this nature.
Q But you haven't determined how to—determined how to spend that money yet?
A The Board hasn't determined how to spend it, no, sir.
Q Approximately how much of that money will be spent in supplements for yourself, the principals, and clerical this year?
A It depends on whether or not you count the extra month for the principal's supplement. I don't because that's work—extended work period, but even if you did it would be two, three, maybe forty-five hundred. That's an estimate of course.
Q Is the clerical assistance that you have or will have paid for at all by the State?
A Yes, sir.
Q How much?
A We receive a State allotment for superintendent's secretarial help and the difference between her monthly salary as supplied by the State and that that they have agreed on as a salary will be approximately $25.00 per month.
Q What is she to be paid next year, at what rate is she paid?
A Three ten per month.
Q Have you employed or do you anticipate employing a bookkeeper?
A The person what we have employed will serve as bookkeeper-secretary. We're not anticipating hiring any more office personnel.

Q Will she then serve the function of property and cost clerk?

A Don't have one. We don't have transportation.

Q Will there be any other office expenses which the State will allocate money for, such as supplies?

A Oh, yes, they allocate a certain amount of money for office expenses, and I could not—cannot tell you the figure, even approximately.

Q Will that be more than sufficient to cover your office expense?

A More than likely not. It hasn't ever been anywhere I've ever been, either as teacher or principal.

Q Will there—that in addition to the County funds will you need to supplement that with your local funds?

A I don't know yet.

Q Have you received travel allowance from the Board of Education yourself?

A Yes, I get a travel allotment from the Board of Education.

Q The figures you cited to me did not include that?

A I don't believe so.

Q What travel will you—

A Ten cents per mile, no other meals or anything like that. Just ten cents per mile.

Q Does the State provide any travel for you?

A They provide an amount of $240.00.

Q A year?

A Per year. That can be used to pay lodging for conventions, and food.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Has the State allocated money for the travel of the Board of Education?

A It's my understanding that they do not pay travel, per diem for city units.

Q Do you anticipate that that money would come out of—any travel for the local board would come out of the local funds?

A This has never been discussed, but I'm sure the travel of—the Board could reach an agreement if they

want to pay travel. This has not been discussed as a budget item.

Q Have you employed an attendance counsellor?

A We are in partial agreement with Halifax, Weldon and Roanoke Rapids for hiring an attendance counsellor on a prorata basis, that is, we will help to supplement the salary of the attendance counsellor, the base salary paid by the State, but it is not enough to secure qualified personnel and travel. We also have the understanding that if we do not choose to pay part of this attendance counsellor, it will be absorbed by those other three units, the cost of that, and we would not receive any benefit from it of course.

Q You are working now to reach this agreement, is that correct?

A No, we already have the agreement vocally with Mr. Overman that—

Q Now, am I correct in understanding that there will be no teacher supplement paid this next year to supplement teachers salaries?

A We are not anticipating any at this point. Now, just a moment.

Q For the 1969-70 school year?

A He is not referring now I suppose—(To Mr. Josey)

Q Not to the ones you have already discussed.

A And I'm talking about new coaches, for example, but they receive that from the local school; the Board of Education is not obligating itself—have not obligated themselves to pay supplements to other teachers.

Q What supplements do you have for coaches?

A Athletic?

Q Yes.

A You mean the amounts?

Q Yes.

A I cannot tell you. These are handled through the local school. The Board of Education does not pay these supplements. The money is raised, as I understand it, through booster clubs and sale of tickets and athletic events, and this is money raised through the schools.

Q Will any local monies have to be spent on instructional supplies?

A I'm sure they will, yes.

Q Do you anticipate—in what areas will you have to depend on local money?

A Construction paper, pencils, colored pencils, marking pencils, duplicating paper.

Q This American history T.V. course—do you anticipate that local money will go into that?

A I'm not sure how the T.V. course will operate, really, I could not say.

Q Is any of your local supplement going to be spent on enlarging or improving the library of the local school system?

A As I said, we haven't got that far. I could not tell you. If we find that it needs to be expanded or repaired or—has to be done, and we have to use the money, we will do it, but nothing has been planned as far as this is concerned.

Q Any of this money planned for child health care programs?

A The State allots I assume the—you're talking about the same program they have allotted us $458.00, I believe, for child health program? We've not budgeted any of our local money for this.

Q Do you know what sort of program this would amount to, this $458.00, what would it go for; what is the substance of the child health program?

A Well, I suppose necessary tonsillectomies or eye checks where the people are unable to afford it.

Q Does the school board pay for expenses in the extra-curricular fields, such as travel to—for students to Girls State, Boys State conventions, that sort of thing?

A You mean will we?

Q Do school boards generally pay for this and do you plan to spend—

A I'm not aware that they do and I don't know what the board will do.

Q Do you know whether the school board pays for travel for athletic, extra-curricular activities, expenses, such as travel for the football team to the—

A The School Board itself does not, at least that's the way it's been operated. I'm almost certain.

Q That is like the coaches?

A That is a local—right.

Q I think you said there was a possibility that some of this money might be expended on one extra teacher but you didn't know whether that teacher would be allotted or whether you would employ him or her?

A This goes back once again to whether we think that educationally this teacher will be needed. Whether it is to reduce extra load, or special area, we don't know.

Q I didn't ask you this question about special personnel. Do you have a librarian?

A Yes, sir.

Q Does she teach or is she a full-time librarian?

A I hope she teaches library skills, yes, but she is not assigned to a classroom.

Q Is the library here ever used, or will it be used for classrooms outside of library science courses or will you ever have classes conducted in the library?

A I couldn't tell you. We certainly would try—make every effort not to.

Q And you don't know whether that was done in the past or not?

A No, sir.

Q Is there a librarian for the junior high school campus?

A No.

Q Is there a library there?

A Yes. The way it was operated, as I understand, last year they had someone that possibly the P.T.A. paid to help take care of the junior high library. I'm not sure about that.

Q Do you know whether the P.T.A. attendant was full time or part time?

A I really don't—well, I'm almost certain it wasn't full time.

Q Your impression was, for whatever services individuals had rendered, it was for part time, short periods of the day?

A It is part time. The teachers themselves are able to help themselves in the library, but if there was someone else there I'm sure it was part time.

Q Do you yourself—we've been talking about—now about the 1969-70 school year primarily. As for long-term changes I think you testified, have you not, that many of these changes or improvements will have to await the curriculum study before you can determine whether they are needed and what sort of—where your emphasis needs to be?

A I would certainly think so.

Q But have you yourself got any ideas about where you would like to spend your supplementary funds here in the Town of Scotland Neck; as an educational expert have you got any ideas where that money ought to go?

A Well, not at this point. I think you're going to have to determine where your money has to be spent on a priority. For example, one of the best things you could do probably is to look into teachers supplements and instructional materials, and all of this will be developed and determined from the curriculum studies as to what is needed, so I think it would be presumptious of me to say now how we're going to spend funds that we know the curriculum study is going to show.

Q Do you have a kindergarten program here in Scotland Neck?

A We have not been administering one.

Q Has one been administered here in the past?

A Are you talking about public or private?

Q Public.

A I don't know.

Q Are there Headstart Programs?

A There was not one conducted here this summer, and Headstart is usually conducted during the summer.

Q In public schools you don't anticipate them?

A Right.

Q What sorts of—can you outline for me the kinds of reports which you as a superintendent or members of your staff must file with the State every year in order to obtain monies or these different—the kinds of reports that any other school systems would have to file?

A I'm not sure because I'm finding out every day we have different ones. You have to file reports, financial reports, statistical reports showing information concerning students—I'm not sure what other reports are re-

quired, really. Reports that are required in other areas throughout North Carolina I would assume.

Q Now, of course, special—most of the special personnel that you would hope to get are generally allocated on a per pupil basis, and if you have a certain number of pupils, you have a certain number of teachers, is that correct?

A Some of them. Special education I think is one.

Q And ESEA is also one?

A It depends on the number of pupils who qualify.

Q Right.

A Yes.

Q Are the kinds of statistical reports that you file or that, for instance, the finishing principal's report, or the preliminary principal's report, that will be filed by the principal with the State, do they differ in format and kind, from the kinds of reports, for instance, that Mr. Overman or members of his staff might file with the State?

A I wouldn't think that they would.

Q Are those forms provided by the State?

A Insofar as I know they are. There may be some that we get the forms and have to pay for them.

Q But they are standard forms that the State Board of Education uses?

A I would think so.

Q Well, now, I believe you have testified that approximately twenty-eight or twenty-nine of your teachers for next year were employed here last year, out of thirty-six or thirty-seven, is that correct?

A Approximately.

Q And that the number of courses you intend to offer and the kinds of courses you intend to offer here next year are very similar to the kinds of courses that were offered here last year?

A (Witness nods head in the affirmative)

Q With the exceptions that we went through?

A That's correct.

Q And that the enrollment here, approximately a thousand pupils, is roughly similar to the enrollment that they had last year, is that correct?

A Somewhat higher.

Q Somewhat higher. Have you obtained extra facilities to accommodate those pupils?

A It's approximately, estimated approximately thirty-five or forty students more.

Q Have you obtained extra facilities, such as mobile classrooms?

A No, we have not.

Q Do you anticipate doing that?

A We don't know. We will have to determine the need and then go from there.

Q Roughly the same number of 1,029 as opposed to nine hundred seventy or eighty, right?

A I would guess. I don't know.

Q What administrative difficulties would arise with the transfer of the school system from Scotland Neck back to the County in view of the fact that most of the teachers are the same, most of the courses are the same, the plant is the same—what administrative difficulties would arise with that transfer, with the exception of the fact that there is an extra school superintendent?

A I've not given that any thought because I've been trying to get ours opened up, and I can give some off-the-cuff report. You got the matter of assigning students, your tuition students, to bus routes. Are we assuming that if we go back into the same situation as it was last year or are we assuming that some other type of organization for the County would be in effect?

Q Well, you can assume it either way. You can assume first of all—I'll let you assume it any way you want to—both ways.

A Well, I think you probably—the assignment of pupils, if they're going back to the same situation, perhaps would not be too difficult. If they're going back into another situation where they go to another school, then you've got to go through the process of reassigning all high school students, not only realigning the transportation for the 360 tuition students that we have, but you'd have to realign bus transportation for all other areas in which the school area had been changed.

Q But if you left those pupils in the school to which they are already assigned at least for one year, then you say the only difficulty you have named so far really would be the—creating the bus routes for these pupils who live outside and who are going to be attending schools—

A Probably one of the major ones, but I can't think of any others right now. I could if I had time to sit down and go through the organizational process myself, I'm sure.

Q I believe you stated you have not prepared a budget for next year?

A No, we have not prepared an itemized budget for 1969-70.

Q Is the only budget you have prepared the budget which you have submitted to the County?

A This was the County budget, and that's the only formal budget that we have prepared.

Q When is the dead line for filing a budget with the State? Do you have to file one with the State?

A I could not tell you. I don't know. Probably past due.

Q Do you anticipate budgeting any local funds for capital expenditure?

A The Board has not decided that as yet.

Q Well, that's sort of running ahead of the Board. Do you anticipate that the Board will be called upon to at least make a decision on that sort of thing and do you anticipate any problems in that area in the immediate future? Or is that something—

A I have not made any plans for capital outlay.

Q Now I believe you received a subpoena duces tecum to bring some documents with you, did you not?

A The ones I've been using.

Q Do you have any letters of agreements between the Scotland Neck City Board of Education or its officials and the Halifax County Board of Education and its officials concerning the lease and rental of the school over here?

A Unless they're in this right here.

MR. BOURNE: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Have you—you have rented that building from the County, have you not?

A Which building?

Q The junior high school campus.

A It's been leased.

Q Right. There is a lease agreement?

A Yes, lease agreement.

Q And an extension of the Town Board of Education—

A Boundaries.

Q —boundaries of the administrative unit to encompass the leased property.

MR. BOURNE: I may have a few more questions but I believe that is all for now.

(THE FOLLOWING PROCEEDINGS TOOK PLACE ON AUGUST 7, 1969)

MR. BOURNE: I have a few more questions.

MR. JOSEY: You go ahead.

EXAMINATION BY MR. BOURNE:

Q Mr. Bailey, I believe yesterday you stated that you had—you planned a curriculum study program for the school system here?

A Yes, sir.

Q Could you describe that program, and who is going to serve in it, when the report is due?

A There's no report due. This is something that will be locally initiated. As to what it will encompass, any item that would be encompassed, we could not tell you now. It would cover I assume such areas as the curriculum itself, the physical plant, operation and organization of the school system. It will involve teachers, administrators, parents, laymen, businessmen, students, and any others that we deem necessary. Probably I will be coordinator of the curriculum study, probably.

Q Do you plan to get outside educators to come in as consultants in this matter?

A Possibly. We will of course get outside help, either getting copies of curriculum studies that have been made,

and then sort of glean from that what will be applicable to our situation here.

Q And am I correct in restating what I think you said, that there is no particular date or dead line by which you—by which time you hope to complete this study?

A No, we have not. Any time you take a study such as this you have to establish dead lines other than which —it can drag on, on and on, but as of this point we haven't instituted a study so therefore we do not have a completion date.

Q Do you know when you will complete the study?

A At this point, no.

Q Do you have any idea?

A It will be as soon after opening of the school as possible.

Q Did you have a committee in view?

A No.

Q Sort of an executive committee?

A No. As I said before, as far as I've gotten in planning this is generally what we're going to cover, and I feel like at this point I probably will be the co-ordinator, and that is as far as I've gotten.

Q I believe you testified yesterday concerning the trades and industries courses that was offered here last year. There were only pupils from Scotland Neck that were engaged in that course.

A This was from the principal's report. I did not check the date. It may have been from the year before. I saw two pupils on that thing, and this may or may not reflect the total number in it. I don't know.

Q I believe you stated, regarding the recruitment of teachers for next year, that the only university you had contacted or contacted first, being a student or recent graduate of such a university, was East Carolina and that only a few days prior to coming here, is that correct?

A No, not prior to coming here. Oh, you mean for this meeting?

Q Yes.

A Yes, about three or four days ago, and that was by telephone.

Q I believe you also mentioned some advertisements in newspapers. What newspapers have you advertised?

A The NEWS AND OBSERVER, and I don't have a copy of the advertisement.

Q Do you know what date?

A Probably somewhere around the second or third week of July, and it ran—it was run for seven calendar days.

Q How many Negro teachers, aside from the two that you have employed this year, have sought employment with Scotland Neck School System since you've been here?

A I could not give you a number. There have been some, but I could not give you a specific number. I would estimate a half dozen.

Q Do you have in your files their names and addresses?

A We have the applications, yes, sir, of the ones who have applied here. Now, I visited three possible teachers in one family and gave them applications. They did not return them.

Q Were these Negro teachers here in the community?

A No. They're in Martin County.

Q These were Negroes?

A Right.

Q And it would involve three teachers?

A Three that I talked with?

Q Yes.

A Yes, sir.

Q Do you think later on in this deposition you could make available the names of those persons, Negro persons, who applied?

A Yes.

Q And let me see the applications of those persons so I can get that in?

A Yes, sir.

Q I believe you talked about pupil-teacher ratio here for next year and quoted the figure one to thirty, one to twenty-seven for elementary grades, and I'm not en-

tirely clear as to which of those you meant would apply next year and what the other figure signified?

A Well, by State law in North Carolina teachers have been appropriated to reduce the ratio of the primary grades, consisting of one through three. They make a specific allotment for this in order to reduce that load to, say, twenty-seven at least, and it appears now that if we—the way we have it now our primary load will be twenty-seven, point five, approximately, and that the upper grades, four through eight, would run somewhat above thirty. Now if you include just the elementary ratio, which is misleading, then the ratio of grades one through eight would probably run something less than thirty.

Q Around thirty. Is that what you meant yesterday?

A Something less, maybe twenty-nine, if you include grades one through eight, but the way the allotments are made, you can't really do that because there's a different requirement for primary grades than there is for the other elementary grades.

Q What is the requirement for the other elementary grades?

A Well, it's that the pupil-teacher ratio must be less —I don't know whether it's less than thirty or around twenty-seven.

Q For the other than primary?

A It's—was primary that we're talking about here.

Q Do you know what your overall pupil-teacher staff ratio will be?

A Are we talking about including all of our professional personnel, including the superintendent?

Q Including the superintendent but excluding your clerical assistant and any other clerical or janitorial staff?

MR. JOSEY: Off the record.

(DISCUSSION OFF RECORD)

Q (Mr. Bourne) Back on the record. Would you now—what would be your pupil-professional staff ratio again? Have you figured that out?

A This is including all of our professional staff, including special education, two special education, one

ESEA, and the superintendent, and the principal, be twenty-two, point eight.

Q And what is your pupil-teacher ratio?

A Removing from the total staff personnel the superintendent and the principal, twenty-three, point nine.

Q And how many total teachers and total professional staff are you using for this determination?

A I used total professional staff, forty.

Q And total teachers, forty-three?

A Forty-three.

Q And you're figuring 1029 students?

A 1029 students, right.

Q Now I believe you stated that approximately, your best guess, was that there would be 23,000 dollars accruing to the city school system from tuition?

A That's correct.

Q Paying students?

A That's correct.

Q Now, is it correct to say that the way you derived at that approximate figure, by dividing the number of tuition paying students, 360, into the—no, strike that. By dividing the number of tuition paying families, 186, into—by multiplying that by a hundred twenty-five?

A I used the figure of a hundred eighty-six families and I used the median tuition figure of a hundred twenty-five dollars per family and—

Q And reached an approximate figure of—

A Of twenty-three thousand dollars.

Q I believe you stated that you had reached an oral agreement with Superintendent Overman of Halifax County School Board concerning the sharing of attendance counsellors with his unit and with that of Roanoke Rapids and of Weldon school district?

A That's correct.

Q Have you reached any other agreements involving the sharing of personnel or facilities with the County aside from this and aside from the lease agreement of the Scotland Neck School?

A I don't recall any.

Q Are you considering any?

A There's always the possibility of the sharing of a supervisor, for example; this has been done.

Q An instructional supervisor?

A Yes. However, I have not discussed that with him nor has he discussed it with me. This is a possibility. One other thing that might fit here. I have talked with Mr. Hardison, director of the food service—I think is his title—for Halifax County concerning the possibility of in the future including in his bids for the lunchroom purchase of produets, that perhaps ours might be included in his in the future. This was discussed with Mr. Hardison. I have not mentioned it to Mr. Overman.

Q Have you mentioned it to the Board here?

A No.

Q But this is just something you're considering?

A Something that came up one time as to possibly a better way to more efficiently operate possibly.

Q And Mr. Hardison is the director of food services for the school board?

A For Halifax County. Now, whether it's the school board or ESEA I'm not sure. I would assume that it's for the school board. I don't know.

EXAMINATION BY MR. JOSEY:

Q Now, Mr. Bailey, these possible arrangements with the Halifax County School Board in regards to sharing of certain instructional personnel, isn't it your information that those agreements, certain agreements, do now exist between Halifax County School Administrative Unit and Weldon and Roanoke Rapids and have for many years on various, maybe special education teachers or that type of thing?

A I think it has. Now I could not state as a matter fact it has, but I believe it has existed.

Q Now you also mentioned earlier concerning the fact that there was no Headstart program actually conducted on the physical facilities of Scotland Neck School in the summer of 1969, but I will ask you if it isn't a fact that arrangements were made and oral agreements were reached between the Scotland Neck School Board and Halifax County School Board that, although the Head-

start program was not physically conducted on the Scotland Neck School campus this summer, 1969, but that the children that lived in the Scotland Neck city limits were in fact permitted to go to the Headstart program in the summer of 1969 on a campus which was outside the city limits but was in Halifax County Unit?

A It is my understanding that the summer school privileges were extended into the summer, the ones that were with the Halifax County.

Q And is it not your information, also, that this Headstart program had—was conducted-not only the Headstart program, but other summer programs—were conducted more or less on alternate years on the physical facilities which are now in Scotland Neck School District and on other school—at other school locations in the—somewhere in the vicinity of Scotland Neck from time to time over the past several years?

A I'm not aware of the method under which these were operated in the past.

Q But it is your information that the—that the school children that live in the Town—that pre-schoolers that live in the corporate limits of Scotland Neck were not denied the privilege of going to Headstart program this year?

A That is my understanding.

Q Now, getting back to the pupil-teacher ratio, I believe you testified on direct examination that—on yesterday—that you estimated the high school pupil-teacher ratio at twenty-two when in fact you testified that there were 337 students and 17 teachers, and I will ask you if in fact this doesn't mathematically come out to something less than twenty rather than twenty-two?

A Now, here we're talking about all the high school personnel, is that correct, principal, guidance, all of this?

Q I want you to talk in the same terms that you talked about when you said that the—when you testified that there were 17 persons and that there were 337 students, and you said that came out to twenty-two, a ratio of one to twenty-two. And I'll ask you to use the same—whatever you used in arriving at 17 and ask you if in fact that mathematical figure doesn't come out to under twenty rather than twenty-two?

A If we use the total number of high school professional personnel, principal, guidance, all included, the figure is nineteen, point eight.

Q Now, concerning this advertisement that you ran in the NEWS AND OBSERVER for teachers, in general what was the substance of that advertisement?

A It gave the name of the unit, it indicated at that time what we estimated to be our needs as far as teachers and administrative vacancies; it advertised for a principal, for approximately—well, it was a thirty-teacher school based on our best estimate; it advertised for primary teachers. I don't think it gave a specific number. Grammar grade teachers. And it did not give a specific number. And we also indicated a need—I believe we were indicating this need at that time, a science teacher, and social studies, and girls coach. I believe that's correct.

Q Was there any indication whatsoever that you preferred one race over the other?

A No, sir.

Q Now do you have an estimate or an opinion as to how many teachers totally made application or inquiry of any type as a result of this advertisement?

A I would estimate between fifteen and eighteen. Maybe twenty. I don't know exactly.

Q Do you have an estimate of how many of those were Negro and how many were white—just an estimate?

A Well, as I think I said yesterday, approximately a half a dozen or so.

Q A half a dozen or so what?

A Were Negro.

Q Now out of the ones that were white approximately what percentage of those did you actually hire, do you know—some estimate?

A I really have—don't have much of an idea really.

Q Well, do you know how many?

A Perhaps three. I'm not sure.

Q And what was the approximate total of the number of whites that applied as a consequence of the advertisement?

A Well, there would probably be nine to twelve to fifteen perhaps.

Q And how many Negro teachers have you hired since you first put the application in the newspaper—the advertisement in the newspaper? Do you recall?

A None.

Q Now of the approximately six who did, the six Negroes who did, did they actually make application or did they make inquiry?

A When they made an inquiry we in turn sent them an application.

Q How many of those six would you say—six would you say—the six forwarded an application—showed that much interest in coming?

A I would say as many as five of them perhaps, and maybe all six.

Q Did you interview any of those five or six?

A Yes.

Q Now did any of those—of those Negroes that made application, did you—did they meet the minimum standard or qualifications academically or—as a teacher, the standard that you set—strike that. Did you in fact—have you in fact in all of your hiring practices used the same standard of academic excellence or standard for hiring teachers with the white teachers as you have the Negro teachers; did you use—

A Yes.

Q Did you use the same standard?

A Yes, sir.

Q Did any of the five or six Negro teachers who applied meet the—meet this standard?

A Yes, sir.

Q Did you hire any of those?

A No, sir.

Q Would you give any reason for them not being hired?

A Well, of course, we check—not only do we look at the application, but we check references and places of last employment, and in some cases the ones that we have turned down, the recommendations, we felt or I felt were not strong enough.

Q Now without calling any particular names, would you give us any particular reason that any of the Negro teachers who were—who did not—who failed to meet the minimum standard of academic excellence, the reason they were not hired?

A Well, one in particular, I had an interview with the lady and was very favorably impressed with the interview and the place of employment that I checked, her last place of employment that I called, they made the comment over the telephone—this was not written—over the telephone that we cannot give you any good things about this particular person. Well, I said, "Could you be more specific?" And they said, "Well, we think she's an alcoholic."

Q And that was the only reason that you felt like you could not in good faith hire her as a teacher and take that risk, is that correct?

A Yes, sir.

Q And you would have done that regardless of whether she was black or white?

A Yes, sir.

Q Were there any others that you felt met the minimum standard of teaching ability that you did not in fact hire?

A I can't think of any now. Now I might add here that we are still considering two, maybe three of these applicants. These have not been—

Q Of the six?

A Of the six. They have not been rejected. They are still under consideration just as some of the other white applicants are under consideration.

Q So the five or six who applied have not been rejected?

A Not all of them, no, sir. We're still considering the applications.

Q Now Mr. Bourne in his direct examination of you asked you about Mr. Swain who, I believe in the deposition, was shown to have taught in—at the—what is known as the junior high building, the Scotland Neck Junior High building last year, and he asked you if in fact he was—that you rehired him and I believe you

testified, did you not, that he was not under contract with the Scotland Neck School at this time?

A That's correct. He is not under contract with Scotland Neck.

Q Now I will ask you if in fact why isn't he?

A Well, first of all, he never made application. I have on two occasions talked to Mr. Swain concerning the possibility of him returning in the same capacity that he served last year, which was building principal of the junior high. He did not accept.

Q And isn't it your information that Mr. Swain is in fact—did an unusually good job there last year and that the other teachers that taught with him recommended him, that is, particularly all teachers, white and Negro that served under him thought highly of him and of his ability and the way—the job that he did, isn't that your information?

A It is my understanding that Mr. Swain did a fine job in this position and in talking with him I have no doubts that he's capable of doing the same again.

Q And isn't it also your information that the chairman of the School Board, Mr. Shields, and possibly others, have personally talked with him in an attempt to get him to again sign a contract with—strike that word "again"—to sign a contract with the Scotland Neck School Board in order to retain him in the same position that he was in last year?

A He was the first—as I recall he was the first name mentioned for the possible position of principal in fact.

Q And isn't it also your information that the Halifax County School Board, particularly the Superintendent and the Assistant Superintendent, Mr. Currin, made a special effort to hire Mr. Swain this year?

A I'm sure they must have because they did. He's under contract, as I understand it, with the Halifax County Board of Education.

Q Now Mr. Bourne asked you about any—any efforts you made with any colleges to obtain teachers in general, and I believe the only one that you mentioned, other than the advertisement and the normal—and the usual procedure of passing the word around that we needed—that

the School Board in Scotland Neck needed teachers, the only college that you contacted was Eastern Carolina University?

A (Witness nods head in the affirmative)

Q And that was by a telephone call just two or three days prior to the taking of this deposition?

A That is approximately correct. Now I might add this: when we got applications we wrote back to some colleges to get their personal data on those individuals, but not to write to the placement bureau to ask them to please send all lists of applicants that you have.

Q Now isn't it also true that there are a substantial number of Negro students graduate from East Carolina each year?

A I have no idea the number, but I'm sure there are several garduates.

Q Now what special efforts, such as personal visits, running down leads, and so forth, have you made to hire, over and above the normal for all teachers, to hire Negro teachers?

A I made a visit one Friday afternoon to a home in Martin County, a Negro family lives there. There are eight children in the family. And barring any accidents, seven of those eight children will graduate from college. I think four, maybe five, already have. Three sisters have graduated from college. And I personally talked with them, their mother, and the family for about one hour and a half.

Q In their home?

A In their home. I left with them—with the three sisters an application and asked them to return it if they were interested. They did not return those applications and I think I know the reasons why for two of them. Two of them are teaching out of State. They make more money. One of them has been teaching in North Carolina in a particular system for six or seven years and is not ready to move.

Q And did you in fact use all of your persuasive abilities and had a keen desire to obtain the services and sign them up as teachers in Scotland Neck School System?

A Two out of the three I would not have hesitated one minute to recommend to the Board of Education. One perhaps lacked—perhaps lacked a little bit in experience, and the use of the language, I might have hesitated, but two out of the three I would not have hesitated.

Q Now, in regards to the—to the dropping of the trades and industries course from the curriculum of the Scotland Neck System for the year 1969-1970, I believe you testified, did you not, that from your observation two—determination that only two students out of the entire high school last year that attended Scotland Neck High School were actually enrolled in the T and I program to the best of your knowledge?

A Well, the only basis I have to know that, I believe it was the principal's final report. I'm not sure. I believe, too, the principal's final report indicated the number of students enrolled in each particular subject. I believe it showed the figure two. It may have been a typographical error. And that's the only thing I have to go on.

Q Now, Mr. Bailey, you've been employed in this job for a month and a half now. Why is it that you have not gotten further with your curriculum study? Would you explain that, please, sir?

A Well, the superintendent's job is new. I'm having to learn that, willing to learn that. It takes time. I'm trying to hire personnel, and I don't know whether I should add this or not, but it is my belief that the changing of this hearing three times, four times, has interfered with my job to some extent. It interefered with an interview. It interefered with a planned visiting or seeking of teachers on the first day scheduled by the subpoena when it was changed. And, actually, another reason why we have not gotten on the curriculum study is that it involves teachers and teachers are not here yet. Our immediate plans are to open the school efficiently, get our organization underway, and at that time undertake the curriculum study, which is the only sensible way to do it. We can plan in our minds, get an idea, a skeleton idea of what we are hoping to accomplish,

but to get down to the actual organization of committees, things of this nature, it would be rather foolish to begin this in my opinion until we get school open and things settled in school.

Q Would it be fair to say that you—that you have had and that you will have until the opening of school other administrative details which are absolutely necessary to be accomplished, such as hiring teachers, making arrangements for the smooth flow of funds from the State and County, and the federal funds, and that type of thing which—without which the school cannot efficiently operate and which you have been involved with and feel that they are the first thing that should be accomplished?

A Yes, sir.

Q Before the curricular study can get underway?

A Yes, sir. I think it would be very ill-advised to begin the curriculum studies before the opening of school.

Q Now, when you speak of this hearing being changed, what you mean is the taking of your deposition, isn't that correct?

A That's correct. Now I don't know the circumstances for the changes. I have no idea. The only thing is that I know it interfered with planned teacher recruitment, and another day with a teacher interview.

Q And this is—is it not the third time that it has been set?

A Well—oh, I think I was scheduled on a Tuesday, the first—well, Tuesday—whatever the subpoena says—in the morning at 9:30. It was subsequently changed until the—possibly the next morning, and then I didn't hear anything else from it until it was changed once again and I believe finally set for yesterday.

Q Now some mention yesterday was made concerning possible expenditure of certain funds. I believe that the tax funds that—supplemental tax funds—the specific question being asked by Mr. Bourne was whether or not you would spend these funds or any portion thereof, or had planned to spend any portion thereof, for capital outlay. And I believe your answer was in general, was it not, that at least at this time you knew of no definite

plan by the Board of Education to use these particular funds for capital outlay, isn't that correct?

A That's correct.

Q Now, based on what you have seen of the facilities, the physical plant, since you've been here, a month and a half or so, can you foresee—do you foresee the need for capital outlay or certain funds being set aside for capital outlay for improvement of the facilities?

A Yes, sir. Specifically, the majority of the buildings are old, the plant is small, the gym facilities would—are poor. There is the need of—in my opinion there is already the need of new facilities, new plant, in order to improve not only the condition of the old ones or to replace the old ones but to improve the size of the facilities.

Q And, Mr. Bailey, isn't it true that even in the State School Survey made in, I believe, in January of 1968 that Scotland Neck—that the State Survey shows that Scotland Neck has more inadequate—in general, more inadequate classroom spaces and physical facilities than any other school in the whole Halifax County Unit?

MR. BOURNE: Objection. I don't think he said yesterday that he was familiar with this sort of thing.

Q (Mr. Josey) Well, if you can answer it in whatever way you can answer it, answer it.

A Not being familiar with the survey I can certainly say, in looking at the buildings, that the majority of our classroom facilities are inadequate.

Q And would you, based on what you have seen of these facilities, and based on what you know as an educator, the minimum standards of certain facilities should be, wouldn't you—is it fair to say that—that there is no question but what additional physical facilities will have to be supplied and to be built in order to bring these facilities up to a reasonable standard?

A As I stated before, the size of the plant is too small, and it is my opinion that new facilities, more facilities will have to be built.

Q And isn't it pretty obvious to you that—that the vast majority of the classroom facilities are extremely old and that very few classrooms and school facilities

have been built in the Scotland Neck School in the last twenty or thirty years?

A In what—in the facilities that we now operate, the majority of the buildings are old, some built some—as old as fifty years I suppose, and the majority of them have not been built in the last twenty or twenty-five years according to the building dates on the—that the architect gives.

Q Now, Mr. Bailey, isn't it true that Scotland Neck School Administrative Unit, under the present plans, will in fact be for the year 1969-70, and thereafter, be operated as a completely integrated unitary school system as you understand the term to be?

A That's correct.

Q Do you know of any other school in Halifax County that, under the present plans, that will be so operated?

A I do not.

Q Now on yesterday, Mr. Bailey, Mr. Bourne asked you if you—if you know of any administrative difficulties which would occur in the unlikely event that the Court on the 25th of August 1969 were to allow the United States Government's motion to enjoin the Scotland Neck School from operating under the—under the Scotland Neck School Bill and would prevent the Scotland Neck School Board from functioning, and would in fact turn the school over to the Halifax County Board of Education for operation during the year 1969-70 pending the final outcome of the trial of this matter, and I believe you stated, did you not, that you had not given any thought to that and were at that time, when he asked you the question, really didn't—had not given enough thought to know what administrative difficulties there were—isn't that basically what you told him yesterday?

A As I told him this, this possibility—I had not given it thought because we were trying to go along on the function that we would operate—in order to get the school ready to operate. I also told him that one way that I could go through this was to sit down and put myself in the position whereby this would have to occur and then I could come up with some problems that you run into.

Q Since yesterday have you given it some consideration and do you now know of and have some additional ideas about what administrative difficulties would occur?

A Well, let's assume that the Scotland Neck City System would be again incorporated into the Halifax County System. We would still have your problem of setting up bus routes and transportation. The one that occurred to me was money, since I would be involved. We now have our teachers under contract with the Scotland Neck City School Board. This is an agency of the State. And the question came to my mind legally how would we resolve either paying or transfering contracts from the Scotland Neck City School Administrative Unit to the Halifax County Administrative Unit. How would we determine whether or not that legally a teacher was employed. The injunction hearing, as I understand it, will be the 25th. Teachers are scheduled to arrive the 26th. Some of them will be here the 25th working. Those we could get in touch with perhaps—how would we get in touch with the others, indicating that they are under contract or not under contract—how would we be able to resolve all of this if the hearing is at twelve o'clock and the decision is rendered at one o'clock. We couldn't do it.

Q Let me ask you if in fact each of the teachers that are scheduled to teach in the physical plant located in Scotland Neck is in fact under contract to teach and under contract with the Board of Education of Scotland Neck?

A That's correct.

Q And they are in fact, and will not on the 25th of August be under contract to Halifax County?

A That's right, not the way the State statutes now stand.

Q Of course, these State statutes over that have nothing to do with the law that created the Scotland Neck School Administrative Unit, do they; they are another statutory body of laws that have been in existence for many years?

A That's correct.

Q Now I show you here Defendant Scotland Neck Exhibit 3.

(MARKED FOR IDENTIFICATION)

Q And ask you if that is a form, a blank form, of contract for professional service, North Carolina Public Schools, which form is drawn up in accordance with the State Superintendent of Public Instruction of North Carolina's instructions and in fact obtained from that office?

A That's correct.

Q And, of course, all of the teachers and personnel, other personnel of the Scotland Neck School Administrative Unit who are at the present time under contract and who will be under contract on the 25th of August, 1969, and at the beginning of the school year, in this contract agree to work within this Unit only, isn't that correct?

A The way the contract reads and my understanding of the contract is that they agree to work in a particular unit, not in a particular school, but in a particular unit. In other words, this, the contract that we have here, I do not believe could be legally transferred to Halifax County, Bertie County, or any other county.

Q And in your opinion if the Court—if the Court in fact granted the plaintiff in this case, that is the United States of America, its prayer for relief as set forth in its complaint and as set forth in the subsequent pleadings and motions filed to prevent the Scotland Neck School Board from operating under the—under Chapter 31 of the Session Laws of 1969, and to prevent the Halifax County Board of Education from operating under a freedom of choice for the year 1969, do you have an opinion as to whether or not a number of the school teachers who have already signed a contract with the Scotland Neck School Administrative Unit would not voluntarily sign such a contract with Halifax County School Board?

A If we assume that the people now under contract with the Scotland Neck City Board of Education would be asked to move into locations new to them on the 25th, on or about the 25th—maybe the 26th—and due to other chaotic conditions that would exist, I think you would find

some would not agree to teach in this situation. You may even find some who might try and determine whether or not they could receive salary legally by not doing anything because they've been under the contract with the Scotland Neck City Board of Education. I'm certain that many teachers and workers would give serious consideration to not moving into another system under these conditions. It is rather difficult to expect teachers and administrators to operate an orderly process of education under stuff such as this.

Q And that would particularly be true because of the time element involved in attempting to reshuffle students and teachers some one day, at the most two days, before school opened, isn't that correct?

A That is true. And one other aspect of the teachers concerning this, we would have to assume if this occurs that there would have to be a minimum delay of—this would be just transferring of bodies—of perhaps two to three weeks. We have many teachers who continue their education during the summer—these summer—these colleges or summer programs—and they begin on—I would estimate—maybe June the ninth or tenth. By necessity our school year would be pushed back so far that they would not be able to enter. This would interfere with the professional growth of a teacher.

Q In other words, what you're saying it would appear that if a temporary injunction was entered against Scotland Neck School and/or the Halifax County Unit, that it would almost follow as a necessity from an administrative standpoint that school would have to be delayed some several weeks in order to make any substantial change in the plan of operation of the Scotland Neck Unit in relation with the Halifax County School, is that correct?

A Yes, sir. It is my belief, and having seen this from experience in Bertie County, that effective school organization and scheduling has to be planned in advance. If we come up on the 25th or the 26th and they say you cannot operate, some other plans are going to have to be devised and worked out, these plans will include the re-registration of students, reassigning of teachers, negotiating legally of the contract, this takes time. In my

estimation you can change bodies and you can change desks in maybe two or three weeks, but in order to get the students effectively registered, this takes a little more time.

Q Now, assuming from Mr.—from the attorney's questioning, attorneys for the United States Government, Mr. Bourne and Mr. Kennedy, assuming from their questioning that the United States Government is requesting the Court to require the Halifax County Board of Education to emplement the interim plan for the schools located—which were located last year, in 1968-69, in the Halifax County Unit, to implement the interim plan to set forth by—as proposed by the State of North Carolina in its December survey, December 1968 survey, which includes transferring all of the—strike that word "transferring"—of placing all high school students in grades ten through twelve that are presently in the Brawley-Scotland Neck High School District to the physical plant which is known as the Scotland Neck School, that is, the main campus of Scotland Neck School, which of course includes the primary grades, the old grammer school, what administrative physical problems would exist in accomplishing this after the 25th of August, 1969, for the 1969-70 school year?

A Well, as I understand it now, this would—what we're saying is that what is now Scotland Neck High School would become a senior high school?

Q That's correct, under the interim plan as I understand it.

A And am I also to assume that we will—I believe you stated, or did you, where would the students for the junior high, eighth and ninth—

Q Well, let's just take first the main school location.

A Okay.

Q Which last year, in Scotland Neck, which last year housed the grades one through—one through six and nine through twelve of certain students in the County, and assume, as I understand the interim plan of the North Carolina Public School Survey, take out all of those one through nine, that is, those students, one through nine, who would normally attend that school district, that

physical location, and place all of the students, ten through twelve, that is, those who attended Brawley last year and those who attended Scotland Neck and who are scheduled to attend those two schools under the present plans, and put all of the ten through twelve students in that physical location, and only those students, what administrative or physical problems do you see occurring?

A Well, of course, you still—we would assume here that transferrings would be involved, and we can never ignore that because that takes time. There would be the problem of once again re-registering students, and I'm not certain as to the number of students involved, but I would assume that it would be rather crowded when you put tenth, eleventh, and twelfth graders in quarters that have been designed for students in grades one through six.

Q What do you mean by that? Are the desks, the rest rooms, and that type of thing different for students one through five, six, seven, primary grades, than it is for high school students?

A Desks are, of course, different sizes for the different age groups. You do not use the same desk for a first grader that you use for a senior, and, consequently, you use different height urinals, different height commodes to some extent, and if the building has these, it would be a little bit cumbersome proposition for the larger students—they might even resent it—I don't know.

Q Physically, could a two hundred pound junior or senior boy sit in a desk designed for a first grader?

A No, sir.

Q What would have to be done in order to adapt that to a tenth or to a twelfth grade?

A Transfer of equipment would have to be undertaken, if the equipment is available, and we assume that it is. It would have to be transferred. Remodelling—I would think it would certainly be in order in the bathrooms, things of this nature. We would have the problem, as I said before, of accommodating—even if it's the same number of students involved, we're talking about different sized students, so we have the difficulty of using the same amount of space for these same children,

same students, different desks, more lab space, things of this nature that are geared to high school curriculum.

Q Would the lab facilities at the Scotland Neck School, present lab facilities, be adequate for a high school of more than tiwce the number of high school students that now exist?

A No, sir, unless it's different from what I have seen, it would not.

Q Would there be any—strike that. Are there—certainly—library books available for primary children now physically—library facilities physically located in the main building on the Scotland Neck campus which would not in any way be needed or adequate for high school students?

A Library books, once again, are geared to the level of interest of students. High school students do not read the same books as your primary grade students, and in order to have an effective library program the library would have to be transferred to the location on the students; wherever the students go then the library books would have to go. And this involves more than just loading them in a truck, backing up to a door, and dumping them out. These books have to be catalogued, maintained, checked, and filed by your librarian or assistant in the library. You just don't back up and load them and dump them out. You can do thus but, here again, that is not a mark of an effective school system.

Q And at least the Halifax County Unit will not on the 25th of August have any of the seventeen-odd teachers that are now—will be under contract with the Scotland Neck School Administrative Unit; they will be short that many teachers, isn't that correct, to teach those number of students?

A Unless something could be done about the contracts, and I can't see where it can. They would not be under contract with the Halifax County School System. And, as I stated before, there's a very good possibility, even if the contract situation could be worked out, that some of them would not go simply because of the chaos, the confusion for them not being able to do what they've supposed to do—is teach children.

Q Now, as I understand it, from your experience, it's a teacher under contract to a particular unit under the law and under the contract can be assigned against her will if necessary, or against his will if necessary, into any school within that administrative unit?

A This is my—

Q But he cannot be assigned outside of the unit?

MR. BOURNE: I object. That calls for a legal opinion.

Q (Mr. Josey) Well, hasn't that been your experience?

A This is my understanding.

Q Even by a federal court judge as far as you know?

MR. BOURNE: Object.

MR. JOSEY: Go ahead and answer it.

A I assume this is correct.

Q (Mr. Josey) Now do you know of any way that the State of North Carolina under the—under the policies and laws as set forth, other than the law—Chapter 31—creating—of the Session Laws of 1969, creating the Scotland Neck School Administrative Unit, could pay a teacher or could refuse to pay the teacher who had signed a contract with the Scotland Neck School Administrative Unit; do you know of any way that they—that those teachers—that the State of North Carolina could refuse to honor the contracts that have already been signed?

A I know of none. Now I might add this: legally, now, the teachers who are under contract with the Scotland Neck City Board of Education, the only way they can receive a pay voucher is with the signature of the Chairman of our Board of Education, and my signature as secretary. If an injunction were served and we were no longer permitted to operate, we could not sign these vouchers.

Q And as far as you know the money under the laws of the State of North Carolina has been allocated to the Scotland Neck School Administrative Unit in Dr. Craig Phillips' office and that money under all the body of laws of North Carolina, none of which has yet been declared unconstitutional, certainly not the vast majority

of it, that money would be allocated to pay these teachers certainly in the event that six months from now, one year from now, or whenever it is, a final judgment is entered determining that that law is constitutional?

A The way the State allots this money, they allot it monthly. The money is available and we make a request. This is pure paper work. We make a request to the State for the money and then the money is certified to us and we pay—we pay the teachers. Now the State has the money.

Q So long as—the State is not going to have the money to put aside for the eventual payment of these contracts and at the same time pay additional—the teachers for Halifax County to operate under the same—for the same students?

A In other words, you're talking about hiring seventeen more teachers to teach the same number of students and still honoring the same contracts of these seventeen, these high school—

Q Right.

A I would guess that the State has not budgeted money for this situation.

Q So, in effect, you're saying that this—the issuing of a temporary injunction in a case of this nature is entirely—that is, as far as the teacher pay and teacher contract—is entirely different from the issuing of a temporary injunction against a—one unit as a whole and the Court requiring teachers to shift from one school to another?

A I think it is different.

Q Now the policy that Mr. Bourne asked you about, the Board of Education of Scotland Neck had set concerning permitting students who live outside the corporate limits of Scotland Neck and outside the limits of the school administrative Unit of Scotland Neck, allowing those students who live outside of those boundaries to come in, is set, is it not, in accordance with other laws of the State of North Carolina other than the particular statutes that created this Scotland Neck School Administrative Unit?

A My understanding, that it does exist elsewhere.

Q And as far as you're concerned and the Board is concerned, you are merely operating or have set this policy to operate as you understand is legal and lawful for every other school unit, school administrative unit, in the State of North Carolina, isn't that correct?

A That's correct.

Q And isn't it true that in the event that the Court were at some time to say for one reason or the other that Halifax County School Administrative Unit could not permit these students to come into the Scotland Neck School Administrative Unit, that Scotland Neck School Administrative Unit could and would operate without them?

A I would certainly think so.

Q And would, of course, still be a complete—completely integrated unitary school system as far as you visualize it in operating and in complete compliance with the Civil Rights Act of 1964?

A It would be.

Q Is it not your information that the regional head of the Department of Health, Education, and Welfare out of Charlottesville, Virginia, a Mrs. Sorenson, has publicly stated that as far as she could determine that such —that Scotland Neck School Unit specifically would—assuming they are permitted, every student, black and white, to go to the same school and in fact assign them to the same school, that it would be, as far as she could determine at that time, would be in complete compliance with the Civil Rights Act and any other policies that the H.E.W. set—is that your information?

A I have not seen that in writing, however, I have talked with Mr. Bob Strothers, who is assistant superintendent in Raleigh, and he indicated to me vocally that we would be in complete compliance. I have subsequently written a skeleton outline of our decision plant to Mr. Strothers. He at this time has not returned it, but it's my understanding that, as far as the guidelines are concerned, that we will be in complete compliance, giving us, incidentally, a chance to know what we're going to do from year to year so we will know how to operate.

Q Now, Mr. Bailey, yesterday, and in direct examination by Mr. Bourne, he asked you certain questions which

related to more or less a comparison of the curriculum and plans that you had with the operation of the Scotland Neck School Administrative Unit as compared to, basically, the curriculum and operation of schools in previous years under the Halifax County Board of Education, and I believe that you did in fact give him certain things that you had planned for, and in essence compared your curriculum, proposed curriculum for 1969-70, particularly course offerings, with those in the past, isn't that correct?

A That's correct.

Q Now I will direct the next series of questions to a comparison with what you visualize this Scotland Neck School Administrative Unit, that is, the academic proggress which you may visualize and the proposal for the long-range goals of the Scotland Neck School Administrative Unit and whatever advantages that you see exist in a unit of this size as compared to a larger, more spread out, physically spread out unit which the Scotland Neck School was in previous to the creation of the Scotland Neck School Unit, and ask you if in fact you see any educational advantages in Scotland Neck School Administrative Unit over a unit which it was previously in?

A Well, as I stated yesterday, most of my views given yesterday was from—as far as what has been decided by the Board of Education, the views that I would give now would be my own personal views and the things that I could foresee as possibilities for the Scotland Neck City Administrative Unit. Number one, I think—and these may or may not necessarily be in the order of priority, but we mentioned before our curriculum study. I think this is important and I'm not saying that this hasn't been done before in the County. I do not know whether it has or not. But I do know that we will be able to carry out a curriculum study; we will be able to follow up this curriculum study and recommendations we find from this. Now, going along from what I see developing from the curriculum study, studying of the plant facilities, for example, how adequate or inadequate are they, do we need more or do we need less. And I can foresee that we will need more and better physical fa-

cilities in the Scotland Neck City Administrative Unit. We will have more funds with which to work along these lines. We will be able to utilize our extra money—if you would like to call it that—in other areas other than just the physical plant. As I said yesterday, no plans have been stated concerning teacher supplements but this is—certainly will receive top priority in our investigations—the possibility of teachers supplements. We will also utilize—I foresee utilizing teachers to reduce class load.

Q Let me ask you about teachers supplements. Do you consider the supplements for teachers in certain cases necessary in order to obtain adequate teachers or adequate qualified—adequately qualified teachers?

A In some areas we find that this is true. For example, supply and demand of teachers dictate their salary I think or what they will work on in some specific areas, such as your math area, math and science area. This sometimes does require specific supplements. In some cases your special teachers. If you go into—our curriculum study indicates you need band, for example, you certainly do have to supplement the band instructor to get him in, so in some instances supplements are necessary.

Q I believe you also testified that you were approximately six or seven teachers short at the present time, that is, those that are under contract, and I will ask you if the—having additional funds, supplementary funds, do you anticipate the possibility of using any of those funds for hiring of these teachers if it becomes necessary?

A If the money will make the difference, we have the money, then it could be spent to secure these other teachers.

Q Now in the Halifax County Unit, or any other unit which does not have supplementary funds, would this be possible or as practical?

A It would be possible I presume, however, I don't know of—and here again I'm speaking from my own experience which is limited in area—I don't know of it occurring other than in the coaching staff.

Q Are you saying that in a unit that has no supplementary tax funds, such as Halifax County or many of the other counties, that it is a policy or not a policy to supplement teachers salaries?

A I don't think you could say it is a policy either way. I think it might be isolated instances where it does occur where supplements are paid to special teachers. I don't think you would find it as a policy. I'm not familiar with the surrounding areas, but it is possible that the necessity of supplementing these teachers—of course, would be dictated by supply and demand, and other places may do it.

Q Well, is it not your—do you not know that—strike that. Isn't it true that in this area and probably other areas of North Carolina that almost every city unit or unit that had a supplementary tax does in fact supplement the salary of some or all of their teachers?

A I would guess so, yes, sir.

Q And would you say it is fair to compare the competition which exists among superintendents and hiring teachers with the competition that industry and business has in hiring—hiring their personnel?

A It certainly is. And, incidentally, supplements are only one of the enticing benefits of teachers that can be used between units.

Q What are others?

A Well, an environment or atmosphere in which a teacher can teach not knowing, or knowing from one year to the next what they're going to be able to do, not having this feeling of suspense hanging over them until August tenth; August eleventh come in and wholesale changes. This, believe it or not, has a lot to do with teachers wanting to teach in particular areas. Sometimes more so than money.

Q That is, a stabilized academic situation and the atmosphere, are you saying that this certainly is an encouraging feature to teachers and that this would enable a superintendent of a system which is stabilized and—to have an advantage in hiring teachers as compared to a unit that is less so?

A Beyond any shadow of a doubt.

Q And would you say that one of the advantages of a small—that is, a physicaly geographically small administrative unit over a large geographical school administrative unit is that the teachers in the small unit, re-

gardless of the number of students, but in a compact-physically compact unit, would at least know within just a mile or so where they are going to physically be when they sign a contract as compared to the more physically spread out unit?

A Yes, for example, from—in our unit the teachers know that they will either be at the junior high school or at the high school.

Q Is that true when a teacher signs a contract in a county, say, as large as Halifax County Unit or Bertie County Unit, or Northampton County Unit?

A My experience in Bertie Unit is that they are not told; they do not know where they will be assigned.

Q Other than the procurement of teachers, do you see any other advantages, possible advantages, potential advantages, of the Scotland Neck School Administrative Unit over a larger unit?

A Well, continuing with the supplements of—supplement of teachers, for example. There are other possible fringe benefits that are enjoyed in some other occupations that are not, as I understand it, here in this particular area. For example, hospitalization. Our extra money could be used as a fringe benefit in hospitalization. Extra sick leave for teachers. We could use some of our money in this particular area. And these things help, not only from a physical standpoint, but at least showing the teachers that we're interested in and aware of their own well-being. This is important.

Q Is this not typical of any hiring practice where you have certain additional fringe benefits, such as hospitalization, that type of thing, to offer to employees, whether they are teachers or whether they are engineers, or whatever it is, it's a typical business—

A From a business—

Q —advantage?

A —standpoint this is a fringe benefit that most of your industry does offer, however, I have been employed previously in the Bertie County Unit and I have never—I have always paid my hospitalization.

Q Is there any—any possible advantage to having teachers aides?

A In my opinion there are certain functions performed by a teacher that are non-teaching. We will never liquidate all of these. It is my opinion further that one of the ways that we can help promote the morale of the teacher and the efficiency of the teacher is the use of aides in clerical positions and the supervision of students, to give the teacher a break, a scheduled break, not one where they think they'll get one on Friday, but it is very—rather difficult to go to a classroom with a bunch of third graders—and I say 'bunch' in the strictest sense of the word—stay in there all day long and never—can't get a Coca-Cola, can't get a cup of coffee; you have to run out to go to the bathroom and run back. To me this would be one of the areas that we would certainly look at in hiring of personnel—to type up tests, do mimeograph work and supervise students, to give the teacher an opportunity to relax for a while and then to go back to teaching.

Q Won't Scotland Neck City Administrative Unit, as any other city administrative unit, have some funds from which this would be possible that a unit without a supplementary tax would find more difficult?

A I think our position now is much more favorable than it would be without the tax. Well, I don't know where the funds might come from in our particular situation if it were not for the extra money that we were getting.

Q What other advantages, what other potentials do you visualize for the Scotland Neck Administrative Unit in improving its school system over what it is now and what it has been in the past?

A I would like to continue along the lines of the teacher. Of course, it's my firm belief that your education, the backbone of your education is the classroom teacher and the welfare of that teacher is important, and the financial welfare, or what have you. The teachers must be able to enjoy an atmosphere in which they are free to teach, free to carry on educational experimentation. They must be in a position in which they can further themselves professionally, and it is one of my desires—and this can be done at no cost to the teacher—to make

sure that all teachers, every teacher and principal, guidance counsellor, myself, all of us be allowed to visit another school location for one whole day, not for ten minutes or thirty minutes, but for one whole day, to do basically two things: to get an idea of methods, different methods, employed by other teachers, different techniques employed by other teachers, and then to come back and glean if that—the methods, techniques, or what have—that will work in their particular area. All of them are not going to work alike. I think that the teachers will benefit from that. And, as I said, this will be at no cost to the teacher. Here, again, is where we're going to be helped by the community experience in Scotland Neck. I have no doubts whatsoever that we can get qualified parents to come in and work with these teachers. While the teachers are visiting. The parents will do it on their own time and the teachers are not going to have a loss of that fifteen dollars a day for substitute teachers.

Q And in the event that qualified personnel were not available, is it not possible to have—pay substitute teachers from supplemental funds?

A We would have the money for that purpose and it will be money well spent.

Q Do you see any other advantages that—or potentials for the Scotland Neck School Administrative Unit?

A Well, comparing the size of the County of Northampton with possibly that of Bertie with which I'm familiar, many times we have weather conditions prevailing in the northeastern or northwestern part of the County, and Bertie, that would make it necessary to discontinue the operation of the school—the safety of the travel of the bus, icy roads. We have seen times in which one part of the county—it would be totally unsafe to operate the schools while in another area, more concentrated area, they could be operated without any trouble. So we will be able to make these decisions locally here. We will be able to operate our schools and not disrupt the schedules perhaps as is necessary on a larger scale, and, believe me, it's necessary when you operate as the entire unit.

Q Now do I understand that it is the policy of all schools, including the Halifax County School, for school

to operate or not operate because of weather or other conditions as a total unit rather than closing down a particular location because of weather?

A I don't know whether it's a written policy or not, but where you have your transportation entwined, involving all the schools especially, you'll have one central high school or for example, one junior high school where all students have to come in from all sections of the county, then by necessity they would have to show up. Now whether this is a policy or not I don't know. One isolated instance, you may find where a school will not operate, for instance, because of a blown-up boiler, they can work out something on that, but normally if one stops the other stops in that particular unit.

Q And isn't it your information that quite often the weather in the western and northwestern part of Halifax County is quite often more severe, particularly with ice and snow, than it is in our part, the Scotland Neck part of the County, and as a result occasionally each year where the Halifax County Schools are in fact closed as a whole because of the weather conditions, in the western part of the County, it would have been completely safe to operate and proceed to operate the Scotland Neck Schools?

A This would be my understanding.

Q Are there any advantages that you see as far as the Scotland Neck School Administrative Unit operation, as far as teachers meetings, and meetings of all the staff and faculty, as compared to county-wide or Halifax County Unit teachers meetings?

A I see two major ones. And I might add in preface to this: that this has a lot to do with teacher morale, too —how many meetings, what do we talk about, where do we meet. These are important in a unit such as Scotland Neck. The meetings would be either held at the junior high school or at the senior high school, and I don't know—either of those two places—and I don't know the distance. Perhaps a mile or less, maybe more. In the county in which I worked previously some teachers had to travel as much as twenty miles one way to attend meetings. They would get out of school at perhaps 3:15 and the meeting would be at a quarter to four.

They would have to push the students out of the door and run to the meeting. They're tired, bushed, don't have time to relax. This is an imposition. This is one advantage. You reduce the amount of time involved in travel. Another one is this: from, well, just by sheer compactness we will be able to get our fingers on—with teachers meetings—the needs of our particular area and community, and we will be able, I believe, to develop more meaningful teachers meetings, and this is an imposition with your large unit where you have many schools, because School "X" over here may be wondering about testing; they need to talk about this. School "Y" over here may need some help with transportation. And there's no way in the world you could schedule an hour's meeting that covers all of these things. I think we could very advantageously determine all of our meetings. One thing teachers do not like: they do not like to attend meaningless meetings. They do not like—they need to be well planned; they need to know where they're going to be in advance and need to know when they can go downtown, for instance, to get their hair fixed and not be interrupted by having to go into a teachers meeting.

Q You're not—

A —about things I think he can supervise very closely.

Q You're not in any way by these remarks making disparaging remarks on the previous administration or the present administration of the Halifax County Schools; it is just the fact of a physical plant that exists in a larger physical unit, is that correct?

A As I see it, in my remarks, it's not the fault of anyone. It's from sheer necessity. If you have a meeting in Scotland Neck and it involves all of the unit, then wherever they live in the Halifax County Unit, as it was before, then they have to come to Scotland Neck.

Q And it is your understanding that this—that Scotland Neck, of course, is approximately fifty or sixty miles from, let's say, the McIver School or the Littleton area, isn't that correct?

A Well, this is fairly close. And if you even divide the distance, that's 25 miles.

Q One way?

A Right.

Q Now, Mr. Bailey, in these remarks that you have made concerning advantages that you visualize in the Scotland Neck School Administrative Unit over the Scotland Neck schools being in the Halifax County system, is that—are you opposed—do you oppose the general theme and policy of the Governor's Commission Report on consolidation—how does that fit into your thinking as an educator?

A When you're dealing with education, education where you're talking about the education of the individual or the educational aspects of a community, you can never isolate one factor and basically all of your decisions on that factor. I'm sure that in some localities in North Carolina and others contemplating the comprehensive high school, for example, it is excellent. In other locations it may not be. It depends on several criteria. Size is only one of the factors involved.

Q When you say 'size' you mean the number of students?

A The number of students or the physical size of the particular school district, but basically you cannot tie down an effective school program by saying 613 students are needed for a comprehensive high school or 514, plus six special education teachers, are needed for an effective—I mean for a continuous progressive school or non-graded school.

Q Do you see any advantages in the Scotland Neck School Administrative Unit over its previous condition as regards to local participation, local support, local, to some extent, control as far as the local board is concerned? Do you have any feelings concerning that aspect?

A Here, again, I think from sheer necessity, out of sheer necessity, when you have a local board of education, that the Scotland Neck City Board of Education—five people, let's say—they're representing an area here that is so large; they can keep their finger on the pulse of the feeling of the people, and in doing so not only the Board of Education but school officials and teachers and others can react quicker in my opinion to the needs of these people, needs of the student, needs of the faculty, the needs of the community. This is an advantage I think in this particular situation.

Q In other words, are you saying that the curriculum study—the authority of the school board can be more concentrated and certainly more local and will enable the Scotland Neck School Administrative Unit to concentrate on—more pointedly on the problems that exist in this particular school and for these particular students?

A I do. For example, one that I found in the recent rains. I think Mrs. Caudle now has marked on her floor the number of places where we found leaks. Mr. Clark has indicated several places in the house adjoining where it leaks. I believe we can give more concerted efforts to particular needs, not only that go back to the instructional program—well, N.D.E.A. funds. I don't know now in the new allotment whether that's been reduced or not, but let's say it has not and we have the money now, that we can determine the need, that we need to put in for matching funds in the N.D.E.A. If the government supports it, or the school, that's $500.00. The government matches it under N.D.E.A. That's a thousand dollars that you can use for purchasing power for $500.00 from local funds. I believe that we can determine—put our finger on the needs of the school as far as the equipment is concerned. You can't spend this N.D.E.A. money just for anything, only equipment, any various equipment. If we decide we need an incubator or an oscilloscope and it's pointed out we need it to go into that program, we have the money and can put it in our program and we can use it quicker.

Q What is an oscilloscope?

A You shouldn't have asked that.

Q Do you really need one?

MR. BOURNE: I'd like to know generally.

A Well, it's something used in physics, for example, checking frequencies and things. It's a scope that you can see and determine frequencies. Let me see what is a comparable piece of equipment? The new piece of equipment that we're talking about for the hospital uses the screen type like this. The cardio—I don't know what it is. But, anyway, it's used in physics. The cardiovascular machine I think. It's—it's used in physics.

Q To show the frequency of what?

A Well, frequencies of light. Well, maybe sound. Determine the frequencies of sound and things like this.

A science teacher, one that's a little more up to date, can give you a better explanation. It's been a long time since I worked with one.

Q Now isn't it your information that there is no school anywhere in the Halifax County Administrative Unit, including the Scotland Neck School, which is accredited by the Southern Association of Colleges and Schools?

A Well, now, from the—we have a list of—it's a listing from the State Department of Public Instruction giving the State Department personnel and superintendents, and when the school is accredited, and as I recall, I have looked in the Halifax County area, including Scotland Neck, and to the best of my knowledge this is true. Now this—the one that I used in the 1967—no, it's the 1968-69 edition.

Q. Now do you anticipate that within a reasonable length of time that under the—in the operation of the Scotland Neck School Administrative Unit that you and other personnel involved could—would work towards, and feel that you have a good chance of, becoming accredited by the Southern Association of Colleges and Schools?

A Certainly there is a possibility and it would have to be long-range because I think you're going to run into difficulty with the present facilities, for instance, the curriculum study, the information derived from the curriculum study as of that time when that would be able to be undertaken. Certainly—the school from which I left is accredited by the Southern Association. I think it's fine and I think it's good, and I think it's a commendable goal to work for. It involves—mind you, this is where the money is important. You have to have so many volumes for the library, so many volumes for each student and spend about $25.00 on each student, and $3.50 for each book of a high school student, and you have to have ten of these. As of 1970 you have to have ten of these for each student. That's $35.00 or $40.00 per student that you have to have, that extra money could be used in this area if it's needed.

Q Well, wouldn't you say generally that a school that is accredited by the Southern Association of Colleges and Schools would be certainly better educationally than a school that is not accredited?

A I think accreditation doesn't guarantee anything. Perhaps it shows that you have the minimum students, but I certainly would think that a school that's accredited by the—both the State Department of Public Instruction and the Southern Association of Colleges and Schools, that there's always some improvement shown from schools accredited by these associations.

Q Wouldn't it be fair to say that at least it gives you a working basis from which it would be more likely that the teachers, that the school principal and superintendent could turn out a higher grade of students than if they did not have the facilities and other aspects that would enable them to be accredited?

A I think this would certainly be a correct assumption. For example, there are minimum requirements in equipment, materials, teacher-pupil ratio, things of this nature.

Q What, if any, advantage to the Scotland Neck—educational advantage to the Scotland Neck School Administrative Unit do you see in the mere fact that it has a superintendent?

A Well, if we just—well, let's compare it with another unit, perhaps any other unit. You have one superintendent in large areas. You have several assistant superintendents, let's say, but I dare say that if you take the student-superintendent ratio that ours would be rather small; now that doesn't mean anything unless the particular individual carries out the job that he's supposed to do in leadership and public relations to develop the school system. We would by necessity—well, not by necessity; by the mere fact that we have a superintendent and a principal, we would be able to offer in my opinion closer supervision of the instructional program. We would be able to offer or to react quicker, as we have said before, to the needs of the community, to the needs of the student, to the needs of the teachers. In my opinion we would be able to give an instructional program that will be—depending, of course, upon the individuals involved—myself and others—we will be able to offer a closer supervised program, and when you do this you're going to see an improvement in your program.

Q Comparing the Scotland Neck School Administrative Unit with the Halifax County Unit, I believe you

know, don't you, that the Halifax County Unit has, without including the Scotland Neck students, has some—between nine and ten thousand students, that we have one superintendent and one assistant superintendent, which gives us a ratio of one superintendent or assistant superintendent to approximately four or five thousand students, isn't that correct?

A I'm not sure. I'm not sure about the number of students, but it sounds reasonable.

Q And, of course, we in the Scotland Neck School Administrative Unit will have one superintendent for approximately a thousand students, isn't that correct?

A That's correct.

Q So wouldn't it be fair to say that that would enable you as a superintendent to spend much more time with your teachers, individual teachers, much more time on individual students obviously, than a superintendent and assistant superintendent of a unit that is considerably larger in numbers?

A I think you can't deny this mathematically.

Q And that would ,of course, be even further, that is, the superintendent's supervisory potential in a small unit such as Scotland Neck would be further enhanced by the physical compactness of the unit as compared to the physical size of the Halifax County Unit?

A Well, I can't—of course, the size is similar again, but going back to Bertie County, we had two elementary supervisors and an assistant superintendent in charge of elementary instruction and one in charge of high school instruction, plus he also had the job of ESEA director, and they had quite a bit of their time travelling, plus they'd be paid for travelling, and they spent quite a bit of their time travelling from one school to another, and consequently it reduced—if they travelled thirty minutes, that's thirty minutes taken away from the classroom. I don't care where they go, thirty minutes of supervision is gone. Once again, just from sheer geography. And they leave a school where they supervise, and I dare say they don't have that many supervisors. And this again is mathematicaly evident I would think.

Q Are there any other advantages that you see in general at this time of the Scotland Neck School Admin-

istrative Unit over a larger unit such as the Halifax County Unit?

A I don't know. These are general conclusions that I have and I'm not saying it's over Halifax County or Bertie or what have you. I do know for a fact that if we are permitted to operate as a city administrative unit, and we have said this before, we know from year to year what we're going to be able to do. This will improve the organization of the school. It will improve the supervision of the school. It will improve the morale of the teachers, students of the community, and especially teachers. They will know what to expect. We feel like we will be able to give them more time to do their job, and that is to teach and, very importantly, in my opinion we will be able to provide a better atmosphere for instruction than they are now used to. And I'm not here again indicating anything against Halifax County. It's true in Bertie County. The atmosphere for enjoyable teaching is gone and it needs to be revived. And I dare say that this unit will show an improvement in this area quicker than the County unit, any county unit.

Q I will ask you if in fact this has anything to do with whether there are Negro children in the classroom or whites or mixed, or has anything to do with the color or race of the teachers or the students as such?

A To me, when—for example, I'm hired to be in charge of the Scotland Neck City Schools. I had this same philosophy as a principal. I did not serve in this same capacity as a teacher. When integration, freedom of choice came about in Bertie County, I was principal of the Windsor Elementary School. My philosophy then, now, and will continue to be when a student is assigned under my supervision or in my charge—however you want to call it—they are still students—black, white, polka dot—they are still students, and it is my job, the teacher's job to educate these students regardless of race. This does not bother me.

Q And don't think it is fair to say that that really does not bother the vast majority of the teachers, but the only thing that bothers the teachers is not knowing what tomorrow holds in the way of organization, curriculum, or where they are going to be, who they are going to be

teaching, and where they are going to be teaching, and that type of thing?

A Very few teachers that I know of could—in fact, I could not name one—will say that I'm not going to teach the Negro child, the Indian child, or the Puerto Rican child. I know of no one who will say that. It's the conditions under which they have to teach. If the atmosphere is there for teaching the child, they are not going to isolate the Negro child or the white either. It's not the aspect of integration that has interfered with the education. It's the uncertainty of it. This has affected it I'm sure, but it has affected it in the line of uncertainty.

Q And, of course, the implementation of an interim plan would be, where the interim plan may last for an indefinite period of time, would it not continue to leave this uncertain atmosphere in—whether it's in the Halifax County School or the Scotland Neck Schools?

A As long as the condition—the system is unsettled there is still that shadow of uncertainty. Well, I'm going to make this statement; there is a certain amount of uncertainty as far as the Scotland Neck City System is concerned.

Q Why?

A The Court—the injunction, or the Court brought the lawsuit. And I will make this statement—I cannot prove it in writing, but I will make this statement: that this uncertainty has interfered with our hiring of personnel. I make this declaration, that once this uncertainty is relieved and we are operating as a city unit and the atmosphere that we have now going for education, we will not be faced with this difficulty of hiring teachers. It may take us two years; it may take us three, but once we get it estabished—it gets established we will not have this problem.

Q And would you say that includes Negro teachers as well as white teachers?

A Any teachers, I don't care who they are, and administrators. This has affected our hiring of a principal, and as long as the—this affects the hiring of personnel in Halifax County; it affects the hiring of personnel in

Bertie County. It helps deter and push good teachers into private schools. It has done it and will continue to do it. We are short of teachers now, and the ones we have are going out of the private—I mean the public schools and going into private schools.

Q And isn't it also true that they are taking to the schools some of the teachers that you feel would otherwise accept jobs in maybe the Scotland Neck School or Halifax County School, or Bertie County Schools, where there is this unsettled situation; it's also running some of those teachers into units removed from this problem—

A It's not only—

Q —of public schools?

A Right. Well, it's not only—this uncertainty affects whether or not a teacher is going to teach here. If she doesn't come here, she's going to teach some where else. The point: this uncertainty in my opinion—I don't know of any affidavits to prove it—in my opinion is driving teachers out of teaching, is driving them into other businesses—insurance salesmen. It's depleting our supply of teachers, and this is what we need to—we don't have enough to go around. And I might add this: until the situation is cleared and until the teaching profession once again is restored into what I have referred to before, a career in which enjoyment is derived, we will continue to have problems in securing them.

Q Wouldn't you say that it is a fair statement to make that teachers, a vast majority of them, prefer to teach in public schools because of retirement benefits, because of the pure service—the enjoyment of rendering a service to the public, other things being equal, other than these in private schools?

A Not only the teacher, but if education itself could be restored in some way to where not only teachers enjoy teaching, but students enjoy going to school— you'll find that many of your students that go to private schools would rather be in public schools—more extra-curricular activities. For example, sports are offered more in public schools than in private schools, and this is an important part of their education, and in many cases they are being deprived of this in private schools. And your private schools are geared to the ones going to college

solely and primarily—most of them that are springing up now. They're not going to have a class in special education. No, sir. They're going to have French and Latin teachers. They're going to college, and it's academically geared to college. And all students are not going to college. And I dare say—I have no idea what percentage it is here in Scotland Neck but I dare say it would be five percent.

Q And as far as you anticipate the Scotland Neck Unit it would not only be oriented towards those students who expect to go to college alone, but will be a broader approach to the needs of the students in this entire community, black, white, poor, rich, or otherwise, is that correct?

A Well, you're talking about a total school program. You have to consider individuals, and to me it's just as important to give an education to that child who has a mental ability of special education range as it is to the Phi Beta Kappa material, the point being that we don't want to weaken—you must not weaken any other area at the sacrifice to strengthen another. You can't do this. You've got to emphasize all areas of it. No schools yet has devised a system whereby they meet every need of every child. This is one of the utopian goals of education. It will never be attained, but it doesn't keep us from trying to move from this point up to where utopia is—where we can better get this. And this includes all students.

Q And do you feel that you can better accomplish this under the Scotland Neck City Administrative Unit than it was accomplished in the past under a large unit in this area?

A I can say only this: that the atmosphere and other criteria that we have talked about is more evident in this unit than I have seen since I've been in education, and I can say that unequivocably, that is, the atmosphere for community spirit, participation, the willingness to pay a little bit more money. Well, that's already evident by the tax. The financial support is important; moral support is important, too. And it is more evident here than I've seen in a long time.

* * * *

AFFIDAVIT *

STATE OF NORTH CAROLINA)
) ss
WAKE COUNTY)

Being duly sworn this affiant swears or affirms as follows:

1. I, Dr. J. L. Pierce, am the Director of the Division of School Planning, Department of Public Instruction, Raleigh, North Carolina, and have been in such position for eleven years. As such I supervise the work of the Division of School Planning, including in particular the conducting of school surveys done at the request of local administrative units in the State of North Carolina. Under my general supervision several such school surveys have been conducted and the results thereof published by my office in the past few years.

2. I am in general familiar with the contents of the Report of the Governor's Study Commission on the Public School System of North Carolina, which was published in December 1968. I participated in the research and writing of the Report as a member of the Committees on Financing the Public Schools and on Organization and Administration, and gave my approval to the section of the Report concerning school facilities. It is my professional opinion as an educator that the Report states sound educational principles concerning the size, organization, and reorganization of public schools and school systems for the children of the State of North Carolina. As a professional educator, I endorsed the recommendations made in the Governor's Study Commission Report concerning size and organization of public schools and systems.

3. In the School Survey conducted under the auspices of the Division of School Planning in 1965, at the request

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* Respondents object to the inclusion of this affidavit since they do not believe that it was received into evidence or is properly part of the record in this case.

of the existing Cherryville City Administrative Unit, Cherryville, North Carolina, the Survey Committee recommended that the Cherryville City system, comprising approximately 1,689 students, and some 3 elementary and 2 high schools, be merged with the Gaston County Administrative Unit. In 1968, both the Cherryville Unit and the Gastonia City Administrative Unit, which was larger than the Cherryville Unit, were merged into the Gaston County Unit. The cities of Gastonia and Cherryville are located wholly within the Gaston County Unit.

4. In a separate School Survey conducted in 1965, the Survey Committee recommended that the Gaston County Administrative Unit merge with the Cherryville City Unit and the Gastonia City Unit. In the same survey it was recommended that the 19 separate taxing districts be eliminated and that only one taxing district be formed with an equal tax on a County-wide basis. On page 3 of the Survey it was recommended that "in an effort to provide an economic and well-balanced and comprehensive program at the secondary level it is desirable to have a minimum of 20 to 25 teachers for each secondary school" and further, in the same Survey, with respect to the merging of the three administrative units, "the present formation of the administrative district lines no longer provides sufficiently for the educational needs of all children in the County."

5. In April of 1965, a School Survey was conducted jointly with respect to the McDowell County Administrative Unit and the Marion City Administrative Unit. In 1963-64 these two administrative units had a combined pupil average daily membership for grades 1-12 of approximately 6,800. The Survey Committee recommended that steps be taken to consolidate the two units. These units have since been merged.

6. The Division of School Planning in 1966 published a School Survey with respect to four administrative units located within Rockingham County; they are the Rockingham County unit and the city units of Reidsville, Leaksville and Madison-Mayodan. The Survey Committee recommended that consideration be given to the "adoption of a long range plan by the establishment and

operation of one school system under the control of a single board of education and one administration for all the children in Rockingham County." Average daily membership for the four units was approximately 17,000.

7. The Survey Committee in February of 1966 recommended that the Edenton City Administrative Unit and the Chowan County Administrative Unit be merged. At that time, there were in the two units a total of five schools, with a total of approximately 1,300 students enrolled. In 1967, the two units were in fact merged.

8. As a result of a joint School Survey in 1967 for the Cherokee County Administrative Unit, the Andrews City Administrative Unit and the Murphy City Administrative Unit, the Survey Committee recommended that one school system under the control of a single board of education and one administration be adopted for all of the children in the three administrative units of Cherokee County. The average daily membership for all three systems in 1965-66 was approximately 3,900 students. On July 1, 1969 these units were consolilated into a one county unit.

9. In 1967, a joint Survey was conducted with respect to the Moore County Administrative Unit, and the two city Administrative Units of Southern Pines and Pinehurst. The Survey Committee recommended the merger of all three units. Such a merger took place in 1967.

10. With respect to the Tyrrell County Administrative Unit the Survey Committee in a survey conducted in April of 1968, recommended that high school pupils from Tyrrell County and high school pupils from the adjacent area of neighboring Washington County, be jointly housed in a new consolidated high school.

11. The local administrative units of Lincoln County and Lincolnton City were the subject of a School Survey in 1968. The Survey Committee recommended the merger of the two units.

12. In February 1969, a Survey Committee studied the three units of Burke County, Glen Alpine City and Morganton City. The Committee recommended the merger of the three units into one single unit. The total aver-

age daily membership for the three units is approximately 12,000. These units have since been consolidated.

13. Six years ago this Division conducted a school survey of Granville County and Oxford City Administrative Units, which recommended merger of the two systems. Subsequently the two systems have been merged.

14. In 1967 a survey was conducted which recommended merger of Richmond County, Rockingham City and Hamlet City Administrative Units. These units were merged in 1967.

15. In 1966 Anson County Administrative Unit was merged with the Wadesboro and Morven City Administrative Units, following a school survey report which recommended such merger.

16. A survey committee recommended merger of the Freemont Administrative Unit and the Wayne County Administrative Unit in 1965. These have since been merged.

17. In 1965 a survey committee recommended consolidation of the Tryon City and Polk County Administrative Units.

18. A 1962 survey recommended consolidation of the then units of Pasquotank County and Elizabeth City, and subsequently such a merger was effected.

19. There have been seven private schools created since 1965 in Halifax County and other North Carolina Counties adjacent to it. These are the Bertie Academy, first opened in Aulander, North Carolina on September 30, 1968, and due to reopen in September 1969 at Merry Hill; the Roanoke-Chowan Academy, located in Windsor, North Carolina, and first opened September 6, 1967; the Franklin Academy, and the Franklin Christian Schools, both located in Louisburg, North Carolina on September 9, 1968; the Enfield Academy, first opened in Halifax County on September 1, 1965 and now operating in Whitakers, North Carolina; the N. E. W. Christian Academy, first opened on September 12, 1967 in Sharpsburg, North Carolina; and the Halifax Academy, A Christian School, Inc., located in Roanoke Rapids, North Carolina and scheduled to open in September 1969.

20. Prior to the creation in the Spring of 1969, of the three City Administrative units of Scotland Neck, Warrenton and Littleton-Lake Gaston, it is my information that the next most recently created administrative units in North Carolina were the St. Pauls City Administrative Unit and Maxton City Administrative Unit, both created in 1953.

I make this Affidavit for use in the case of United States of America v. Halifax County Board of Education, C. A. No. 1128 (E.D. N.C., Wilson Division).

/s/ J. L. Pierce
J. L. PIERCE

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

HALIFAX COUNTY BOARD OF EDUCATION DESEGREGATION PLAN

The Halifax County School System operates 18 public schools, 4 which are comprised of predominantly white students, and 14 consisting of all Negro students. There are approximately 10,655 students in the system. Of these, there are 8,196 Negro students, 2,357 white students and 102 Indian students. There are in this system 447 teachers; 322 Negro, 123 white, and 2 Indian.*

There is attached herewith and made a part of this plan a map of the Halifax County public school administrative unit marked Exhibit A showing geographical areas I, A-E; II; III, A-C; IV, A-C.

1.

Beginning with the school year 1969-70, students residing within areas III and IV will be assigned to schools within the areas as follows:

III	Grades 8-12	Eastman School
III(A)	Grades 1-7	Hollister School
III(B)	Grades 1-7	Pittman School
III(C)	Grades 1-7	White Oak School
IV	Grades 8-12	William R. Davie School
IV(A)	Grades 1-7	Aurelian Springs School
IV(B)	Grades 1-7	Everetts School

2.

In Area V, all students, grades 1-12, will be assigned to McIver School.

3.

Students residing in Area I, grades 9-12, would be assigned according to their choice to one of the following schools:

Brawley High School
Scotland Neck High School

* Based on data collected 10-4-68.

Students residing in Areas I (A)-(D), grades 1-8, would be assigned to the school within the area as follows:

I(A)	Tillery Chapel School
I(B)	Dawson School
I(C)	Thomas Shields School
I(D)	Bakers School

Students residing in Area I(E), grades 6, 7 and 8, will be assigned to Scotland Neck School; all other students residing in Area I(E), grades 1-5, will be assigned according to their choice to one of the following schools:

Brawley School
Scotland Neck School

4.

In Area II, all students residing therein in grades 7 and 8 would be assigned to Enfield School; students of all other grades will be assigned according to their choice to one of the following schools:

Enfield School
Inborden School

5.

The dual bus system presently used to transport students to and from school will be eliminated and buses will be operated without regard to race.

6.

Any student assigned under the above plan to a school where there is less than 15% of his race or less than 15% of the race different from his own by request timely made may be assigned to a school where such condition does not exist, provided such student furnishes his own transportation.

7.

Staff and faculty shall be assigned as far as possible to constitute the same ratio between Negro and white races as exists in the student body and no school faculty shall be comprised of less than 12% of either Negro or white.

"A"

Survey/ HALIFAX COUNTY SCHOOLS

Conducted by/ DIVISION OF SCHOOL PLANNING, Department of Public Instruction, Raleigh, North Carolina

Directed by/ J. L. Pierce, Director, Division of School Planning

SURVEY COMMITTEE

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Federal Programs—ESEA Title II
State Department of Public Instruction

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Former Superintendent
Martin County Schools

Walter McCraw, State Supervisor of
Curriculum Development
State Department of Public Instruction

Robert A. Pittillo, Associate Professor
Department of Education
Duke University

Donald G. Tarbet, Professor
Education Department
University of North Carolina at Chapel Hill

Nurham O. Warwick, State Supervisor
Programs for Students with Special Needs
Division of Vocational Education
State Department of Public Instruction

Ben D. Quinn, Educational Consultant
Division of School Planning
State Department of Public Instruction

September, 1968

Conducted for/ BOARD OF EDUCATION, HALIFAX COUNTY, NORTH CAROLINA

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Mrs. J. C. Shearin
J. D. Whitehead
A. G. Wilcox
Mrs. A. L. Williams

SUPERINTENDENT OF SCHOOLS
W. Henry Overman

"B"

FOREWORD

Organizing and conducting educational surveys of local school administrative units is a function and service of the State Department of Public Instruction. Specific responsibility for directing and supervising surveys, including the selection of personnel to assist in all aspects of the studies, is vested in the Department's Division of School Planning.

Comprehensive educational surveys are made by the Department upon official request of county and city boards of education, since it is they who have jurisdiction over the schools in their administrative units. Similarly, implementation of survey recommendations lies within the discretion and judgment of city and county boards. This official liaison between local and State school authorities gives validity to educational surveys and provides stability in their interpretation and implementation.

It is hoped that the findings and the recommendations contained in this report will be informative and constructive. The report should be analyzed carefully in terms of implications for improving school administration, school organization, facilities, and classroom instruction. Good schools are the result of thoughtful planning and forthright decision; this report is designed to stimulate action in achieving both these objectives.

As consideration is given to this report and as plans are developed for its implementation, the Department will be pleased to provide such additional consultative services as may be requested by the superintendent and the board of education.

CHARLES F. CARROLL
State Superintendent
Department of Public
Instruction

"C"

INTRODUCTION

At the request of the Halifax County Board of Education and the Superintendent of Schools, the Division of School Planning, North Carolina Department of Public Instruction, conducted a school survey for the board of education in September, 1968. The field portion of the study was conducted by a seven-member survey committee which spent two days in the school system. The committee held conferences with the administrators and visited each of the schools in the administrative unit.

Purpose

The purpose of the study was to determine the possibility for improvement in the areas of facilities, organization, and finance.

Data and Procedures

Data used in the survey were obtained from (1) the office of the Halifax County Superintendent of Schools, (2) records of the North Carolina State Department of Public Instruction, (3) State and Federal publication, and (4) visitations and observations at each school.

This report is organized in six sections, with a summary of the findings and recommendations being presented in the first section.

It is desired that this report provide the basis for the development of long-range plans with regard to school organization, programs, and facilities. The long-range plan of action, whether it be endorsement of the suggestions in this report or the rejection or modification of them, should be reviewed periodically to insure keeping current with modern educational developments.

* * * *

SUMMARY OF FINDINGS

A summary of findings concerning the community, school finance, the school population, the school system, and school facilities are brought together and presented under these subheadings.

The Community

- Population increased in Halifax County between 1950 and 1960 from 58,377 to 58,956 or a total of 579.
- One population projection shows a decrease to 57,195 between 1960 and 1970 and a further decrease to 55,046 between 1970 and 1980.
- Nine townships increased in population between 1950 and 1960 while twelve decreased in population for the same period.
- Two adjoining counties, Nash and Edgecombe, showed an increase in population between 1950 and 1960 while four adjoining counties, Warren, Northampton, Bertie and Martin, showed a decrease.
- In 1960 there were 28,023 people in Halifax County 19 years old and younger and this is projected to decrease to 26,134 by 1970.
- The birthrate per 1,000 people dropped from 25.6 in 1962 to 20.1 in 1966.
- Halifax County had 920 people going out of the county for employment in 1960 and had 1536 coming into the county for employment. The largest number of these went to Northampton County and the largest number came from Northampton County.
- The median number of school years completed by those who were 25 years of age and older in 1960 was 7.4 years.
- In 1960 Halifax County had 6,636 families with income of $3,000 or less. This represents 52.6 percent of all families.

- From eleven categories of occupation, the category of operatives showed the largest number employed in the county.

School Finance

- The Halifax County Board of Education has an adopted student fee schedule. There are general fees charged to both elementary and high school pupils and special fees for various secondary course offerings.
- The total county tax rate for 1968-69 is $1.50. The schools receive $.855 of this amount.
- The assessed valuation in 1968 was $109,482,327 and the assessment ratio was 40 percent. The 1969 estimated assessed valuation was $112,000,000.
- The date of the last revaluation was 1967.
- The present bonding capacity of Halifax County for school purposes is $3,974,116.00. This figure was derived by taking the county's maximum bonding capacity of $5,474,116.35 and subtracting the county's school indebtedness of $1,500,000.00, (1968 data).
- Halifax County Board of Education has $872,052.88 in capital outlay funds available from the 1963 State Bond Funds.
- The taxable property in back of each pupil in Halifax County in 1967 was $6,905.65.
- An analysis of the current expense disbursements from all sources in 1966-67 shows:

Amount		Percent
$ 89,601.10	General Control	2.2
3,272,254.28	Instructional Services	80.0
156,028.62	Operation of Plant	3.8
118,602.46	Maintenance of Plant	2.9
50,002.68	Fixed Charges	1.2
405,235.67	Auxiliary Services	9.9
Total $4,091,724.81		100.0

- The total per pupil expenditure for current expense from all sources in 1966-67 was $444.69.
- In 1966-67 the per pupil expenditure from local sources for the Halifax County Administrative Unit was
  (1) $22.93 below the State average for county administrative units.
  (2) $45.40 below the State average for city administrative units.
- During the period between 1962-63 and 1966-67 the per pupil cost in capital outlay from local sources fluctuated from $12.35 in 1962-63 to $20.20 in 1966-67.
- In 1967 the per pupil expenditure for debt service was $12.72.

The School Population

- The total professional staff for 1966-67 was 449.
- The total number of teachers and principals for 1966-67 was 442.
- The 1967-68 professional staff/pupil ratio for the unit was 24.2 and the classroom teacher/pupil ratio was 25.6 for the same period.
- In 1967-68 there were nine teachers, or two percent, holding less than a North Carolina Class "A" certificate.
- The administrative unit has four teachers (professional staff) paid entirely from local funds in 1968-69.
- A five-year pupil population projection shows:
  (1) A decrease of 262 pupils in grades 1-8 from 7466 to 7204.
  (2) A decrease of 292 pupils in grades 9-12 from 3107 to 2815.
  (3) A decrease of 554 pupils in grades 1-12 from 10,573 to 10,019.

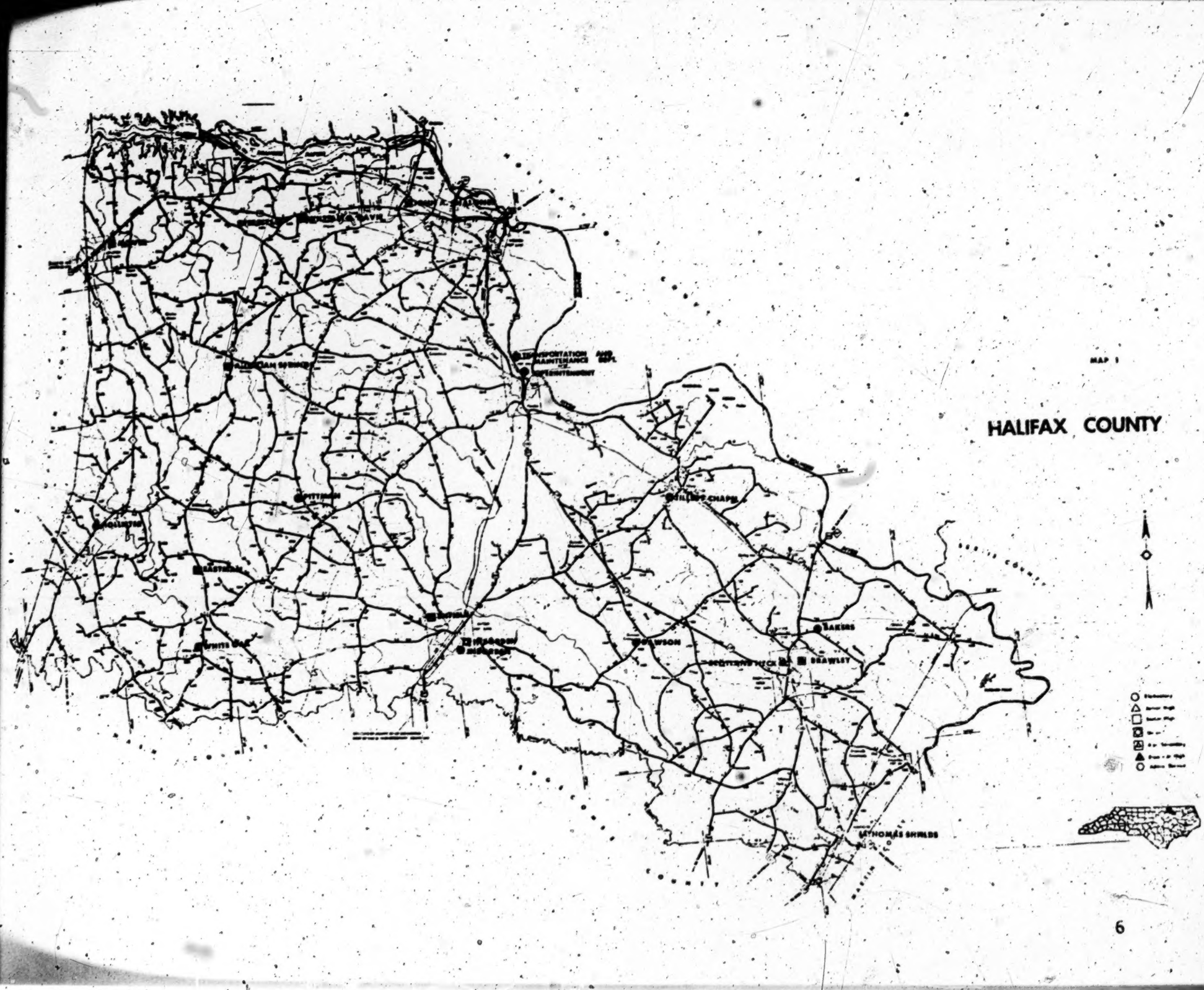
- There are 382 resident pupils attending schools in other administrative units (1968-69). Estimated
- There are 65 nonresident pupils attending schools in the Halifax County Administrative Unit (1968-69). Estimated
- Out of the 960 pupils that were enrolled in the eighth grade in 1962-63, 552 graduated in 1967.
- Out of the 552 graduates in 1967, 102 or 18.5 percent entered either a four-year college or a two-year college or its equivalent.

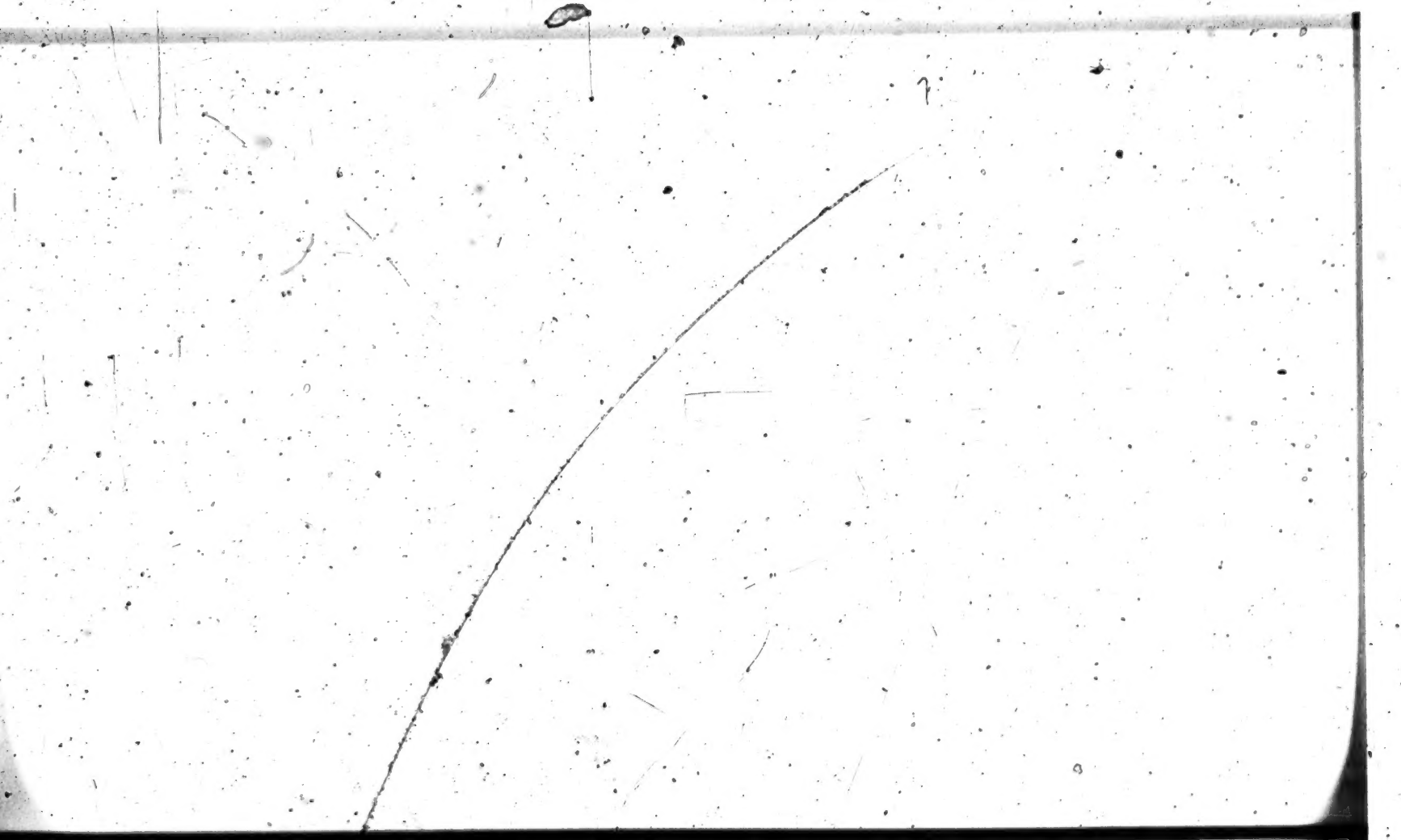
The School System

- There are 18 separate schools in the Halifax County Administrative Unit; eight are union schools, nine are elementary schools, and one is a high school.
- The number of secondary course offerings range from 44 at Brawley to 28 at John A. Chaloner.
- Most of the schools in the unit are either accredited or being accredited by the North Carolina State Department of Public Instruction. None of the schools have been accredited by the Southern Association of Colleges and Schools.
- The number of library books per pupil range from 12 at Hollister to six at Inborden Elementary.
- In special education, the unit has ten classes of educable children and four speech and hearing teachers.
- All schools in the unit serve a type "A" lunch daily.
- Many of the schools are too small to operate a food service program efficiently.
- In 1967-68, Halifax County operated 121 buses and transported 9,872 pupils daily.

School Facilities

- A compilation of data related to the elementary and secondary facilities of the administrative unit is given on pages 78 and 79.
- A map indicating the present schools and their locations follows.


HALIFAX COUNTY



Major Problems

The findings of the survey indicate that there are some major problems facing the schools in the Halifax County Administrative Unit. The problems are (1) small elementary schools, (2) small high schools, (3) inadequate financial support for the current expense operations and the capital outlay needs, and (4) the shifting of pupil population brought about by the 1964 Civil Rights Act.

Recommendations

The recommendations that follow are based upon the findings of this study and the professional opinions of the Survey Committee. These recommendations may be used in any manner deemed feasible by the officials of the Halifax County Schools.

Basic

Although the purpose of the survey was to study the organization, finance, facilities, and special areas of concern of the Halifax County Board of Education and to make recommendations accordingly, the Survey Committee suggests that consideration and study be given to merging the county unit with other administrative units in Halifax County.

Basically, the Survey Committee recommends that every effort be made by the officials of the Halifax County Administrative Unit to assure, insofar as possible that (1) each secondary student will have an opportunity to attend a comprehensive high school; (2) each elementary student will have an opportunity to attend an elementary school having a non-teaching principal, two to four teachers per grade level, a full-time librarian, a pupil/professional staff ratio of about 20:1, and adequate programs in the basic subjects as well as music, art, physical education, guidance, and special education; and (3) the unit will be prepared to initiate a kindergarten program when a statewide program is established.

The Committee further suggests that areawide (several counties and administrative units) planning and cooperation could produce for each unit, on a shared

basis, (1) a more specialized staff of professional and non professional supervisors, (2) a comprehensive educational media center, (3) broader and more specialized guidance services, (4) broader and more specialized maintenance programs, (5) an economical use of data processing, and (6) economy through more centralized purchasing and warehousing.

Reorganization

The Committee recommends that consideration be given to a long-range plan of reorganization that provides for two high schools (east and west), grades 9-12, to serve the entire Halifax County Administrative Unit. Elementary schools, grades 1-8, should be developed or maintained to meet the standards for elementary schools suggested in the basic recommendations. This should not be construed to mean that elementary schools in various areas should not be paired or stratified. In fact, the Committee sees advantages in an organizational pattern that would establish middle schools and lower elementary schools and recommends this pattern in areas where it is feasible and practical.

Facilities

If the above suggestions are acceptable, the Committee suggests that the following facilities be developed for long-range use. See Map 2.

Secondary, grades 9-12—Since the existing school facilities are not adequate to house the secondary pupils in the eastern or western areas of the county, the Committee suggests that two new plants be constructed, one in the east and one in the west, to house approximately 1,500 students each.

Elementary, K-8—The Committee suggests the following use of existing facilities for elementary purposes:

Aurelian Springs—Use all facilities on an immediate basis. Replace all facilities constructed

prior to 1948 that will be needed for long-range purposes. The 1935 gymnasium building that has been converted into a classroom building is marginal and should be re-evaluated periodically.

John A. Chaloner—Phase out of use and raze all facilities constructed prior to 1950. The facilities constructed during 1950 and after are suggested for long-range use.

McIver—Phase out of use and raze the 1925 and 1930 classroom buildings. The 1941 band and shop buildings and the 1948 gymnasium are marginal structures and should be given additional study prior to any major renovations. All other facilities on this site are suggested for long-range use.

Pittman—Use all the facilities for long-range purposes.

Scotland Neck—Phase out of use and raze and replace as needed the 1903 and 1923 classroom buildings. It is further suggested that the 1949 building (1 classroom) be phased out of use for instructional purposes. The other facilities on this site and on the "Junior High Site" are suggested for long-range use.

Thomas Shields—Use and expand as needed for long-range purposes.

Tillery Chapel—Use all the facilities on an immediate and long-range basis with the exception of the 1932 classroom building. This structure should be phased out of use and replaced.

White Oak—Use and expand as needed for long-range purposes.

William R. Davie—All facilities are suggested for long-range use. However, additional study is recommended prior to any major renovation of the 1940 classroom building.

Bakers—Expand as needed and use all facilities for immediate and long-range purposes.

Brawley—Use all facilities on an immediate basis. Replace all facilities constructed prior to 1942 that will be needed for long-range elementary purposes.

Dawson—The 1938 classroom building should be phased out of use. All other facilities on this site are suggested for long-range use.

Eastman—Use all facilities on an immediate basis. The 1947 shop classroom building on this site is marginal and should be given additional study prior to any costly renovations. The other facilities are suggested for long-range use.

Enfield—Use all the facilities for long-range purposes.

Everetts—Use all the facilities for long-range purposes.

Hollister—Expand as needed and use all the facilities for long-range purposes.

Inborden Elementary - Use all the facilities for long-range purposes. However, it is suggested that interior finishes of this building be generally upgraded.

Inborden High - Use all the facilities for long-range use.

EAST - ENROLLMENT AND FACILITY DATA

SCHOOLS	GRADES	Enrollment September, 1968 K[a]	1-6	1-8[b]	7-9	9-12	10-12	CLASSROOMS SUGGESTED FOR LONG RANGE USE	CLASSROOMS ALL AVAILABLE	CLASSROOMS NEEDED FOR SELECTED GRADE ORGANIZATIONS
Enfield	1-12	33	221	428	257	151	101	24[c]	24[c]	
Inborden High	9-12				219	469	250	11[c]	11[c]	
Inborden Elem.	1-8	122	801	949	133			28	28	9-12 1,604 ÷ 25 = 64 + 10%
Thomas Shields	1-8	26	149	203	38			10	10	
Dawson	1-8	44	308	448	125			16	20	1-8 3,624 ÷ 25 = 134
Scotland Neck	1-12	63	402	677	357	302	220	15[c]	35[c]	
Brawley	1-12	54	349	364	228	682	454	17[c]	34[c]	K 391 ÷ 20 = 20
Bakers	1-8	24	207	283	67			13	13	
Tillery Chapel	1-8	25	201	272	71			7	11	
Totals		391	2,638	3,624	1,495	1,604	1,025	141	186	

[a] Estimated
[b] Includes special education
[c] Teaching spaces including gymnasium, shop, etc.

WEST - ENROLLMENT AND FACILITY DATA

SCHOOLS	GRADES	Enrollment, September, 1968 K[a]	1-6	1-8	7-9	9-12	10-12	CLASSROOMS SUGGESTED FOR LONG RANGE USE	CLASSROOMS ALL AVAILABLE	CLASSROOMS NEEDED FOR SELECTED GRADE ORGANIZATIONS
John A. Chaloner	1-12	57	383	393	92	287	195	17*	39*	
W. R. Davie	1-12	78	521	834	411	282	184	29*	29*	9-12
McIver	1-12	45	302	312	89	260	171	20*	30*	1,537 + 25 = 61 + 10%
Aurelian Springs	1-12	25	151	315	218	188	134	8*	26*	1-8
Hollister	1-8	32	244	331	87			13	13	2,921 + 27 = 108
Eastman	1-12	45	314	432	287	520	351	26*	28*	K
White Oak	1-8	43	234	304	54			11	11	325 + 20 = 16
Totals		325	2,149	2,921	1,238	1,537	1,035	124	176	

*Teaching spaces including gymnasium, shop, etc.
[a]Estimated.

In addition to the pupils listed above that live in the western half of Halifax County, there are approximately 310 pupils living in this area and attending school in Warren County. Approximately 160 in grades 1-12 attend the Littleton School and approximately 150 in grades 1-8 attend the Haliwa School.

The Committee recommends that (1) all pupils attending the Haliwa School be returned to Halifax as soon as feasible due to the deplorable conditions of the Haliwa School facilities, and (2) that all pupils living in Halifax and attend school in other administrative units be eventually returned to the Halifax County Unit.

In order for the Halifax County Administrative Unit to provide the new programs and services and to upgrade the existing programs in terms of standards that are defensible from both an educational and economic point of view, the Committee makes the following suggestions to meet the current expense and capital outlay needs of the county unit.

Current Expense

The Halifax County Board of Education should seek an increase in appropriations sufficient to permit the unit to equal the State average in the per pupil expenditure from local sources. Based on 1966-67 data, the annual appropriations to the Halifax County Unit would need to be increased by approximately $290,000 (26 cents tax rate) annually. This increase is needed to provide the following:

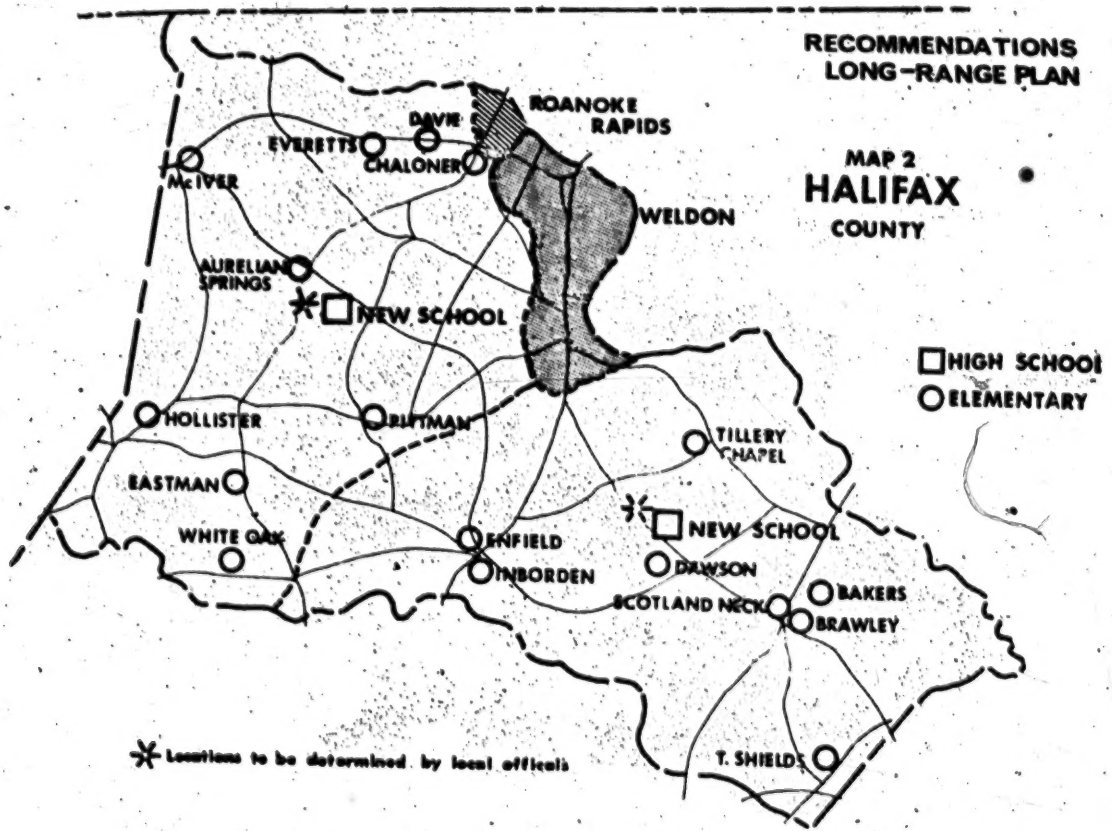
	Estimated Cost
Salary supplements for all professional personnel and for the employment of additional professional personnel	$240,000
Elimination of all student fees	$ 25,000
Provision of some dual transportation, an improved maintenance program, and improved operations in general	$ 25,000
	$290,000

Capital Outlay

The level of financial support for capital outlay should be adequate to annually provide for new construction, additions, major renovations, and replacements. To finance these needs the Committee suggests that approximately $300,000 is needed annually. This would require an increase in the county tax rate of approximately 27 cents. This amount placed into a capital reserve fund should be sufficient to meet the continuing construction needs of the county administrative unit.

However, since there was not a capital reserve fund in the county, and there is an immediate need for two new secondary schools at an estimated cost of $4,200,000, the Committee recommends a maximum bond issue of approximately $4,000,000. Unfortunately, this is the total borrowing capacity of the entire county for school purposes, and if divided on a per pupil basis the Halifax County Administrative Unit could expect approximately $2,720,000. It is further noted that $872,052.88 is available to the county unit from the 1963 State bond funds, and this amount added to the $2,720,000 would still leave a deficiency of approximately $600,000.

As one possible solution to the above lack of borrowing capacity, the Committee suggests that both the current expense increase request of $290,000 and the suggested capital reserve fund be diverted toward this goal for a two-year period, thereby providing the needed $600,000 for construction purposes and for necessary equipment throughout the system.


RECOMMENDATIONS
LONG-RANGE PLAN
MAP 2
HALIFAX
COUNTY
ROANOKE RAPIDS
DAVIE
EVERETTS
CHALONER
McIVER
WELDON
AURELIAN SPRINGS
NEW SCHOOL
HIGH SCHOOL
ELEMENTARY
HOLLISTER
RIFTMAN
TILLERY CHAPEL
EASTMAN
NEW SCHOOL
WHITE OAK
ENFIELD
INBORDEN
DAWSON
BAKERS
SCOTLAND NECK
BRAWLEY
T. SHIELDS
Locations to be determined by local officials

Interim Plan

Assuming that a period of time will be needed to develop plans and to arrange for financing of the long-range recommendations, the Committee offers the following interim plan of organization and facilities.

In reorganizing it is recommended that consideration be given to the adoption of a plan providing for four secondary attendance districts in the Halifax County Administrative Unit (see Map 3).

If the above is acceptable, the Committee recommends the use of the following existing facilities in each district.

District I

Scotland Neck—Use the 30 teaching spaces on the main campus to house all the secondary students living in the district in grades 10-12. The four teaching spaces at the "Junior High site" are recommended for elementary purposes for the immediate area of Scotland Neck (See recommendations for Brawley below).

Brawley—Use the total school (35 teaching stations) to house all students living in the district in grades 8-9 and to house the elementary pupils, grades 1-7, living in the immediate area (town) of Scotland Neck. It is further suggested that the Brawley School and the classrooms at the "Junior High site" of the Scotland Neck School be paired for housing the pupils in grades 1-7 in the immediate area of Scotland Neck.

Bakers, Dawson, Thomas Shields, and Tillery Chapel—These schools (combined 54 classrooms) are recommended to serve all pupils in grades 1-7 for their respective areas.

Note: It is estimated that four additional teaching stations will be needed for the total district. The Committee suggests the use of mobile classrooms or temporary spaces for the interim plan.

District II

Enfield—The total school (24 teaching stations) is suggested for high school purposes to house all pupils living in the district in grades 9-12.

Inborden—The combined 39 teaching spaces at both schools (elementary and high) are recommended for elementary purposes to house all pupils living in the district in grades 1-8.

Note: Approximately 16 additional teaching stations will be needed for the total district. The Committee suggests the use of mobile or temporary teaching stations for the interim plan.

District III

Eastman—The total facility (28 teaching stations) is recommended to house all pupils living in the district in grades 8-12.

Hollister, Pittman, and White Oak—Use the combined 40 classrooms to house all the pupils in grades 1-7 in the district. Elementary attendance zones are recommended for each of these schools.

Note: Approximately 12 additional teaching spaces will be needed to house all the pupils living in District III. The Committee suggests the use of temporary space or mobile units to provide these additional spaces.

District IV

William R. Davie—The total facility (29 teaching stations) is recommended for high school purposes, grades 10-12, for the entire District IV and for the 9th grade pupils living in the Everetts-W. R. Davie section of the district.

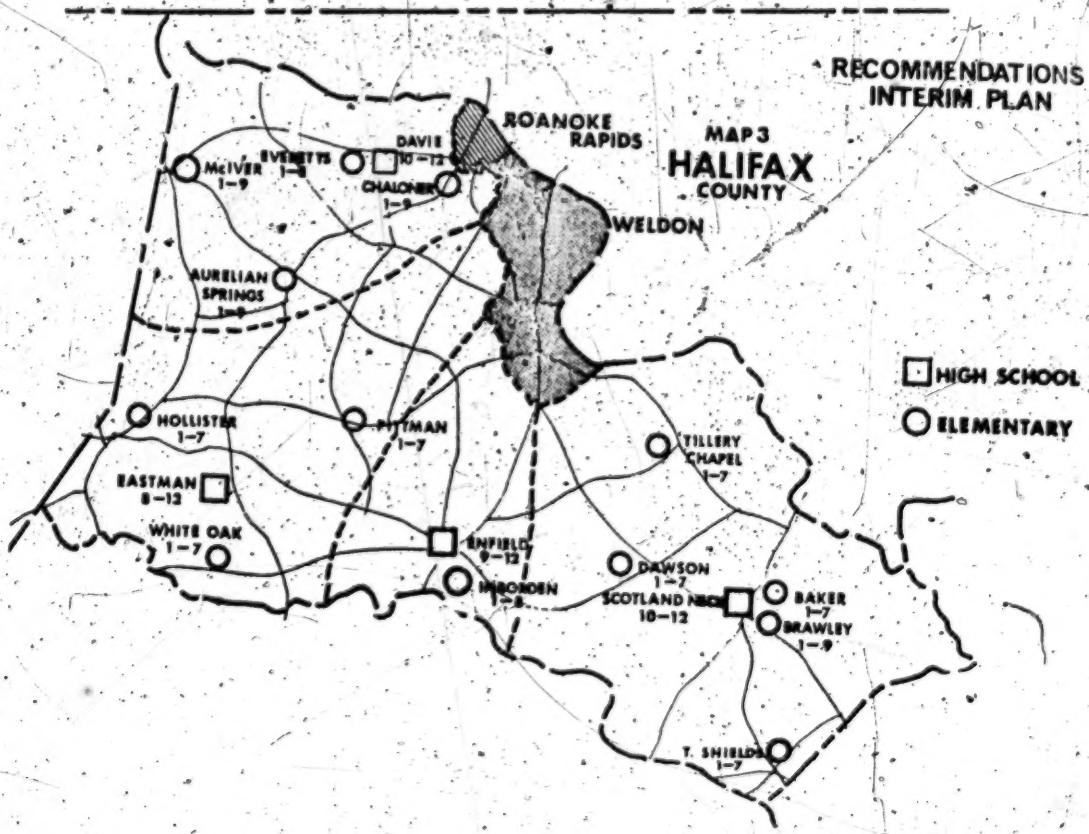
Aurelian Springs, Chaloner, and McIver—Use the combined 95 teaching stations to house pupils in grades 1-9 in their respective locations of the district.

Everetts—This school (20 classrooms) is recommended for grades 1-8 only.

Note: The number of available classrooms in this district will be sufficient to house all pupils for the interim plan.

RECOMMENDATIONS
INTERIM PLAN

MAP 3
HALIFAX
COUNTY



THE COMMUNITY

Halifax County is located in the northern part of the State at the approximate intersection of the Piedmont and Coastal Regions. The county is bordered to the north by Virginia and Northampton County, North Carolina, to the east by Bertie and Martin Counties, to the south by Edgecombe, Nash, and Franklin Counties, and to the west by Warren County. Halifax ranks sixteenth among North Carolina's counties in total land and thirty-seventh in population density. A decline in population is projected through 1980.

The main traffic arteries into and out of the county are Interstate 95 and U.S. 301 and 258.

Although more than sixty-five percent of the residents are classified as either rural farm or rural nonfarm, manufacturing claims an equal share of the county's productive capacity. Textiles is the principal product, and most mills are located in and around Roanoke Rapids. Agriculture also plays a large role in the economy of the county. The major farm products are peanuts and cotton.

Population by Minor Civil Subdivision

Table 1 shows the increase or decrease in population between 1910 and 1960 by minor civil subdivisions for Halifax County.

TABLE 1

COUNTY AND MINOR CIVIL DIVISION	1910	1920	1930	1940	1950	1960	DIFFERENCE (+ OR -) 1950-60
Brinkleyville Twp.	4,858	5,234	5,370	5,200	5,315	4,838	- 477
Ringwood Town	147						-
Butterwood Twp.	1,449	1,474	1,361	1,312	1,169	772	- 397
Conoconnara Twp.	1,505	1,046	2,011	1,797	1,913	1,618	- 295
Tillery Town	269						-
Enfield Twp.	5,790	6,668	8,909	8,435	8,425	8,746	+ 321
Enfield Town	1,167	1,648	2,234	2,208	2,361	2,978*	+ 617
Faucett Twp.	2,159	2,766	2,995	2,972	2,814	2,522	- 292
Halifax Twp.	2,775	3,071	3,122	3,813	3,570	3,529	- 41
Halifax Town	314	299	321	374	346	370	+ 24
Littleton Twp.	3,338	3,070	3,681	3,669	3,668	3,149	- 519
Littleton Town (pt)	571	469	488	511	535	489	- 46
Palmyra Twp.	2,423	2,815	3,222	3,053	2,771	2,128	- 643
Hobgood Town	165	336	557	629	603	630	+ 27
Palmyra Town	94	103	91	93	67	50	- 17
Roanoke Rapids Twp.	4,250	7,703	10,612	13,472	15,607	17,664	+ 2,057
Belmont-S. Rosemary					1,173	2,043	- 1,130
Roanoke Rapids City	1,670	3,369	3,404	8,545*	8,156	13,320*	+ 5,164
Roseneath Twp.	1,140	1,346	1,531	1,588	1,653	1,550	- 103
Scotland Neck Twp.	4,065	4,356	5,116	5,462	5,122	5,699	+ 577
Scotland Neck Town	1,726	2,061	2,339	2,559	2,730*	2,974*	+ 244
Weldon Twp.	3,894	4,217	5,316	5,739	6,350	6,741	+ 391
Weldon Town	1,996	1,872	2,323	2,341	2,295	2,165	- 130
Totals	37,646	43,766	53,246	56,512	58,377	58,956	+ 579

*Indicates boundary changes.

Source: Taken from compilation by Division of Community Planning.

Source: Taken from compilation by Division of Community Planning.

Map 4 shows the various towns and townships in Halifax County. The shaded area denotes population increases between 1950 and 1960.

Population, Past and Future

Table 2 gives the total county population by age and race since 1950 and makes projections to 1980.

TABLE 2

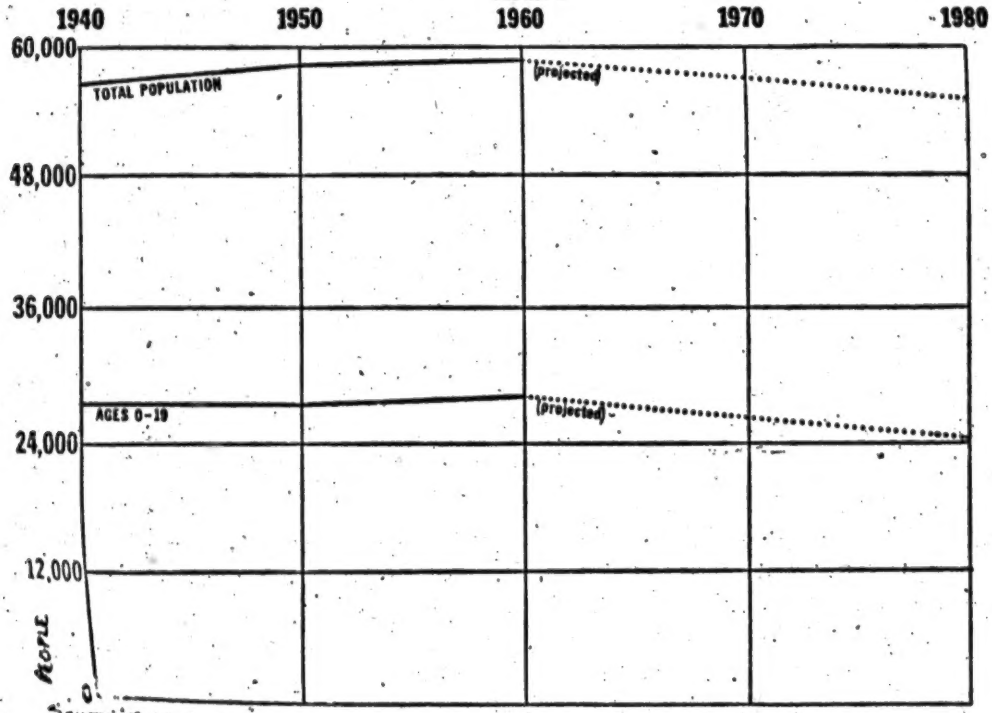
	THE PAST				THE FUTURE			
	1950		1960		1970		1980	
AGE GROUP	WHITE	NONWHITE	WHITE	NONWHITE	WHITE	NONWHITE	WHITE	NONWHITE
0-4	2,845	5,505	2,535	4,914	2,431	4,584	2,449	4,338
5-9	2,366	4,668	2,554	5,119	2,194	4,332	2,251	4,221
10-14	2,130	4,250	2,662	4,765	2,371	4,253	2,273	3,968
15-19	1,928	3,643	1,983	3,491	2,141	3,828	1,839	3,239
20-24	1,952	2,801	1,354	1,860	1,692	2,085	1,507	1,861
25-29	2,202	2,138	1,578	1,554	1,623	1,488	1,751	1,631
30-34	2,013	1,766	1,853	1,763	1,285	1,169	1,605	1,310
35-39	1,932	1,718	2,014	1,617	1,442	1,175	1,484	1,125
40-44	1,761	1,360	1,898	1,501	1,746	1,495	1,210	994
45-49	1,508	1,250	1,810	1,397	1,885	1,314	1,349	955
50-54	1,296	1,073	1,630	1,106	1,756	1,221	1,615	1,215
55-59	1,054	830	1,349	968	1,618	1,083	1,684	1,020
60-64	785	617	1,056	734	1,327	760	1,425	835
65-69	718	610	858	668	1,104	779	1,323	870
70-74			642	461	866	550	1,087	574
75-79	443*	384*	421	313	505	344	656	402
80-84	377	345	192	139	279	168	378	201
85 Plus	39	70	103	94	179	123	254	147
Totals	25,349	33,028	26,492	32,464	26,444	30,751	26,140	28,906

*One computation made for ages 70-79 in 1950.

Source: Publication "1980 Population Projections for North Carolina" by Community Planning and U. S. Census Books 1950 and 1960.

Figure 1 shows in graph form the total county population, past and projected, and the same information for the population of age group 0-19.

FIGURE 1



Source: 1960 U. S. Census, and 1980 Population Projections for North Carolina Counties, Division of Community Planning.

Comparative Growth

Table 3 shows the growth of Halifax County in comparison with all the adjoining counties from 1910 to 1960 with estimates for 1966 and 1967.

TABLE 3

COUNTY	1910	1920	1930	1940	1950	1960	1966*	1967*
Halifax	37,646	43,766	53,246	56,512	58,377	58,956	61,998	60,768
Nash	33,727	41,061	52,782	55,608	59,919	61,002	64,220	63,836
Warren	20,266	21,593	23,364	23,145	23,539	19,652	18,926	18,700
Northampton	22,323	23,184	27,161	28,299	28,432	26,811	26,066	25,557
Bertie	23,039	23,993	25,844	26,201	26,439	24,350	24,081	23,723
Martin	17,797	20,828	23,400	26,111	27,938	27,139	27,753	27,758
Edgecombe	32,010	37,995	47,894	49,162	51,634	54,226	56,295	55,918

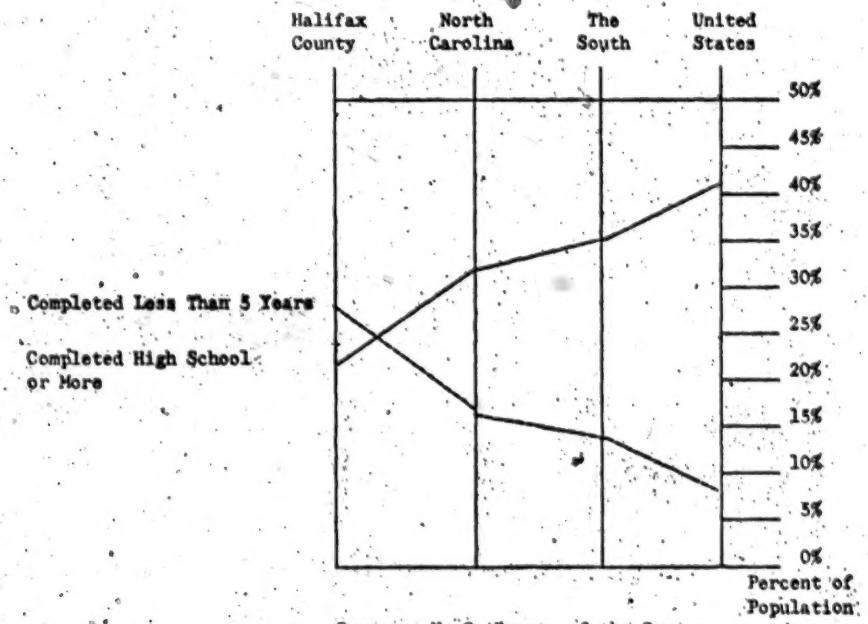
*Population estimates by Statistical Service Center, Budget Division, Department of Administration.

Source: Population of Counties by Civil Subdivisions: 1910-1960 by North Carolina Department of Community Planning, January, 1962.

Schooling of Population

Figure 2 compares the schooling of the people aged 25 and older in Halifax County with the State, the south, and the United States.

FIGURE 2

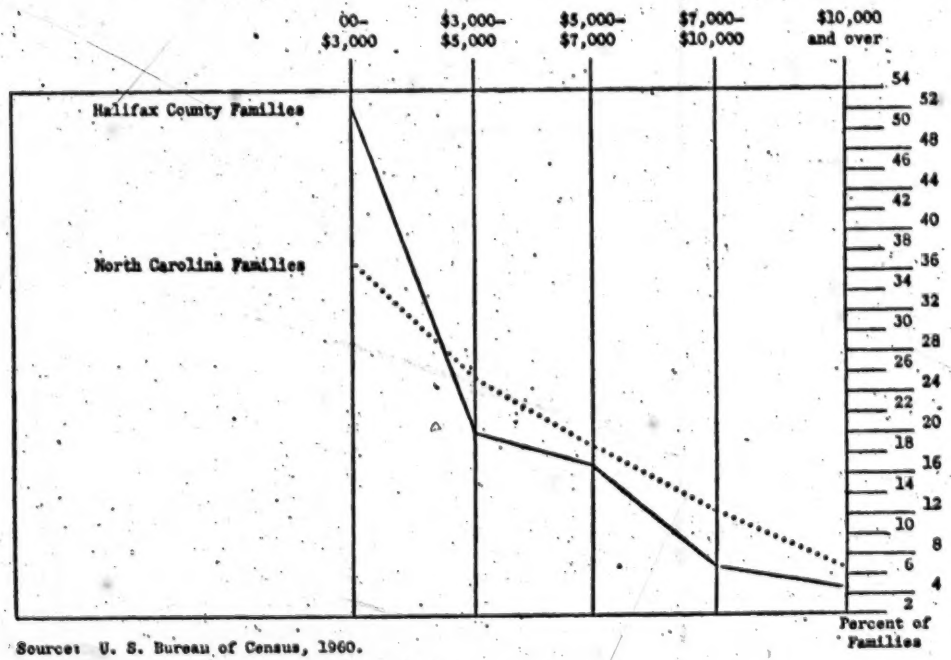


Source: U. S. Bureau of the Census, 1960.

Income of Families

Figure 3 gives the 1960 income of families in Halifax County in comparison with North Carolina families.

FIGURE 3



Source: U. S. Bureau of Census, 1960.

Information not shown in the figure:
Median family income for Halifax County--$2,797 (1960)
Per capita income for Halifax County was $1,387 compared to $1,732 for North Carolina ($962)

Figure 4 shows the number and percentage of persons employed in eleven categories of occupation in 1960.

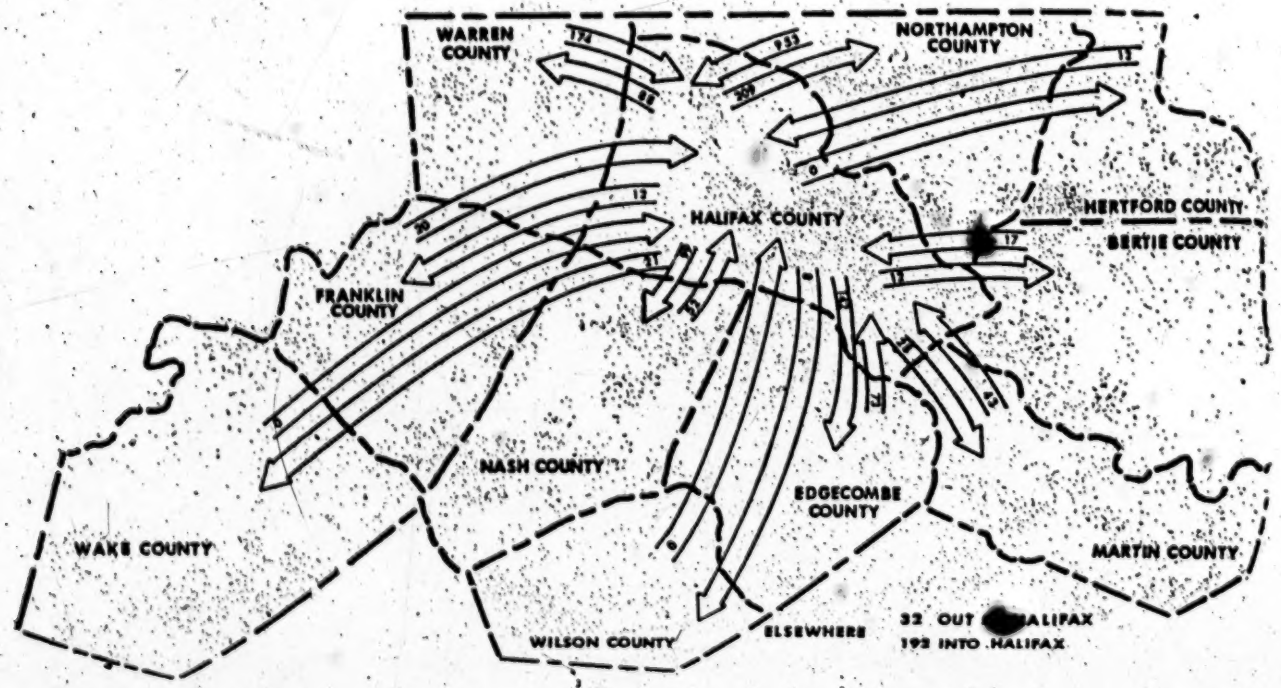
FIGURE 4

CATEGORIES OF OCCUPATION	NUMBER	PERCENT
OPERATIVES	3,765	20.3
FARM LABORERS AND FOREMEN	2,387	12.9
FARMERS AND FARM MANAGERS	2,239	12.1
CRAFTSMEN AND FOREMEN	1,833	9.9
LABORERS, EXCLUDING FARM	1,179	6.4
PROFESSIONAL AND TECHNICAL	1,174	6.3
SALES WORKERS	1,163	6.3
PRIVATE HOUSEHOLD WORKERS	1,162	6.3
MANAGERS, EXCLUDING FARM	1,074	5.8
OTHER SERVICE WORKERS (Waiters, Bartenders, Cooks, Etc.)	1,056	5.7
CLERICAL	1,024	5.5
OCCUPATION NOT REPORTED	477	2.6

Source: V. 3, Census Report - 1960.

Commuting Patterns

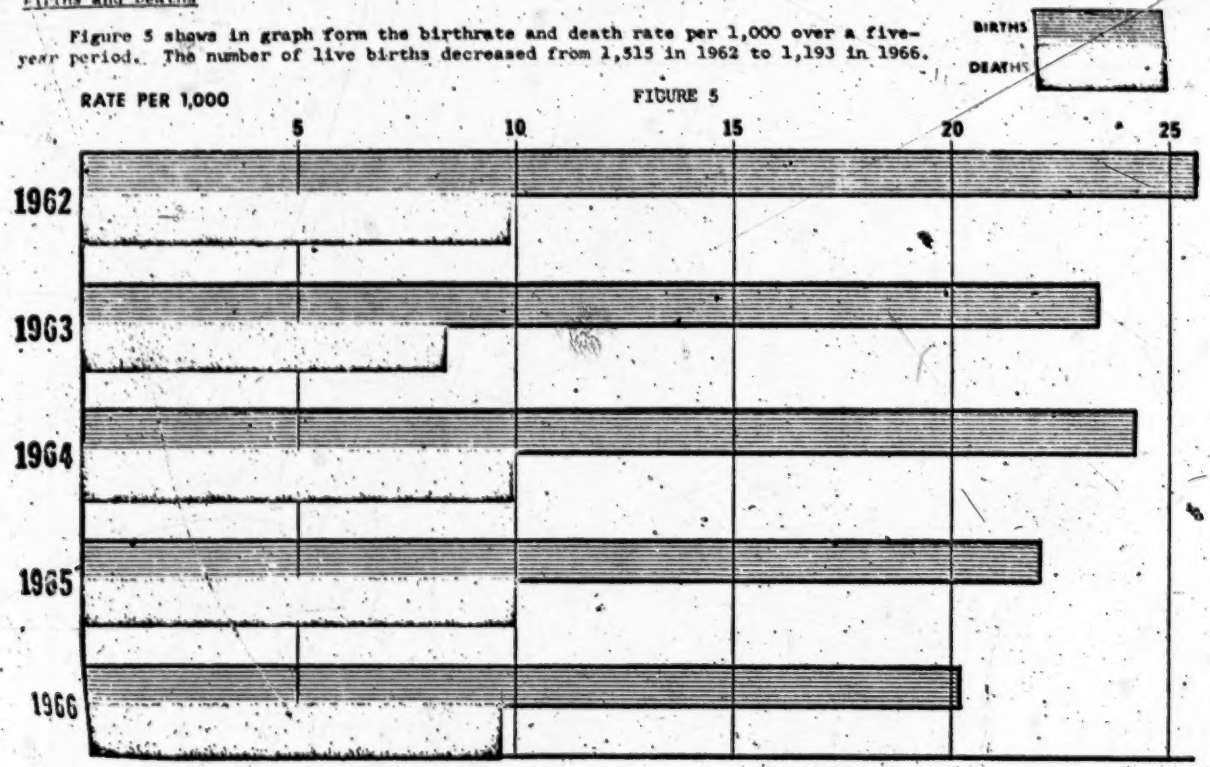
Map 5 shows the number of people coming into and leaving Halifax County for employment.



Births and Deaths

Figure 5 shows in graph form the birthrate and death rate per 1,000 over a five-year period. The number of live births decreased from 1,515 in 1962 to 1,193 in 1966.

FIGURE 5



Source: North Carolina State Board of Health, Public Health Statistics Section.

SCHOOL FINANCE

Probably the one best single determinant in a quality program of education is the financial factor. This is not to say that money and quality educational programs are synonymous, only that many aspects depend largely on adequate financial support.

The State of North Carolina guarantees enough current expense money to provide a minimum program of education for all public school pupils in the State. In addition to the State's minimum program, the Federal government provides current expense monies through the Elementary and Secondary Education Act (ESEA) and other programs. While the State and Federal monies assure the various school units an educational program, quality programs are more often found where they are substantially supported by local resources.

The erection and maintenance of school buildings are the financial responsibilities of the local administrative units. However, the State and Federal governments have helped on a limited basis with construction funds. The various methods available for financing the construction of school buildings are bond issues, borrowed money, gifts, tax levies, and as mentioned above, Federal and State grants on a limited basis.

Local Fees Charged to Pupils

Table 4 shows the fees charged to all pupils and to pupils enrolled or participating in a special course or activity in the Halifax County Administrative Unit.

TABLE 4

KIND OF FEE	AMOUNT	
	ELEMENTARY	SECONDARY
Local Fees Charged to All Pupils		
Instructional Supplies	$2.00	$2.00
Local Fees Charged Only to Pupils Enrolled in a Course or Participating in an Activity		
Insurance	$1.50	$1.50
Typing		5.00
Agriculture		3.00
Home Economics		2.00

Source: Department of Public Instruction, 1968-69.

The existence of a system of fees being charged for many items is an indication that there is both a desire and need for more current expense money. Fees often work undue hardships on parents unable to pay them and the prospects for citizen support of adequate tax measures may be damaged by such fee programs.

Bonding Capacity and Bonding Indebtedness

Table 5 gives basic data related to the borrowing capacity of the total county.

TABLE 5

DATA	TOTAL COUNTY
Date of Last Revaluation	1967
Assessment Ratio	40%
Assessed Valuation, 1968	$109,482,327 ($112,000,000 estimated 1969)
	FOR SCHOOL PURPOSES
Legal Maximim Bonding Capacity	$5,474,116.35
Percent Limitation	5%
Bonded Indebtedness (7/1/68)	$1,500,000
Present Bonding Capacity	$3,974,116
1963 State Bond Funds Unallocated	$972,053.98 ~~$216,862.25~~

Source: Statistics of Taxation, Department of Tax Research.

Taxable Property Per Pupil

Table 6 gives the taxable property per pupil in average daily membership (ADM) for the total county.

TABLE 6

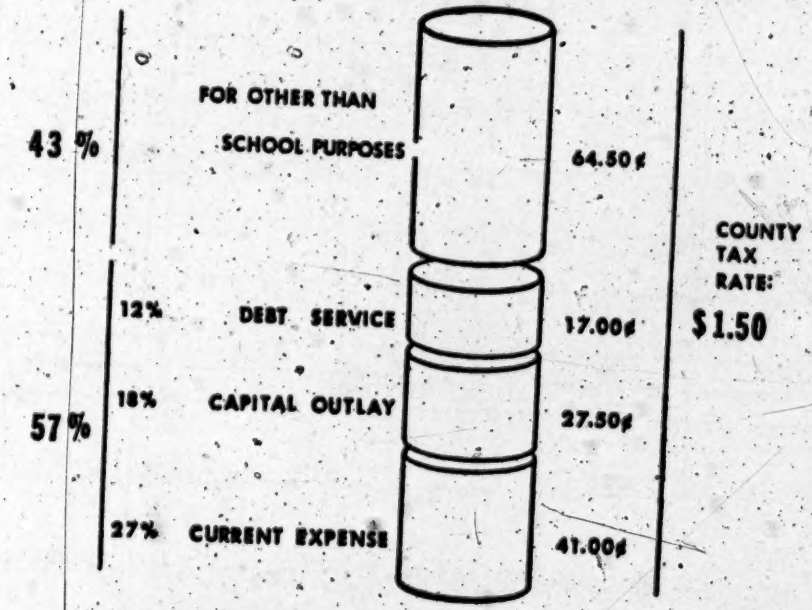
ADM - Roanoke Rapids City	2,723
Weldon City	2,354
Halifax County	10,777
Total County ADM	15,854
Assessed Valuation of Taxable Property - 1968	$109,482,327
Taxable Property Per ADM	$ 6,905.65

Source: Statistics of Taxation, State of North Carolina Biannual Report, Department of Tax Research, pages 337-338.

Property Tax, 1968-69

Figure 6 shows the tax rate for schools (total county, three administrative units) by current expense, capital outlay, and debt service. It also shows the percent for schools and for other than schools.

FIGURE 6



Source: Statistics of Taxation, State of North Carolina Biannual Report, Department of Tax Research, pages 337-338.

Tax Levies

Table 7 gives a comparison of tax levies for a five-year period for the total county.

TABLE 7

	YEAR AND AMOUNT				
	1963	1964	1965	1966	1967
Total Tax Rate	$1.55	$1.55	$1.50	$1.50	$1.43
Total Amount of Assessed Valuation	$86,965,104	$90,245,098	$92,992,660	$97,522,972	$109,482,327
Total Levy for all Purposes	$ 1,347,959	$ 1,398,799	$ 1,394,890	$ 1,462,845	$ 1,565,597
Total Amount for Schools	$ 791,382	$ 794,157	$ 842,514	$ 855,764	$ 938,811
Percent for Schools	58.7%	56.8%	60.4%	58.5%	60.0%
Total Amount for Purposes Other Than Schools	$ 556,577	$ 604,642	$ 552,376	$ 607,081	$ 626,786
Percent for Purposes Other Than Schools	41.3%	43.2%	39.6%	41.5%	40.0%

Source: Department of Tax Research.

Current Expense Disbursements

Table 8 gives current expense disbursements for the six budget categories over a four-year p
for the Halifax County Administrative Unit.

TABLE 8

ACCOUNT	YEAR 1966-67 AMOUNT	%	1965-66 AMOUNT	%	1964-65 AMOUNT	%	1963-64 AMOUNT
Total	$4,091,724.81	-	$2,985,272.94		$2,561,358.49		$2,457,786.2
General Control	89,601.10	2.2	92,331.02	3.1	65,794.70	2.6	61,745.55
Instructional Services	3,272,254.28	80.0	2,234,077.56	74.8	1,972,942.42	77.0	1,911,940.37
Operation of Plant	156,028.62	3.8	127,820.11	4.3	122,794.96	4.8	120,871.71
Maintenance of Plant	118,602.46	2.9	115,438.29	3.9	108,679.24	4.2	102,375.21
Fixed Charges	50,002.68	1.2	59,393.87	2.0	38,660.30	1.5	35,855.24
Auxiliary Services	405,235.67	9.9	356,212.09	11.9	252,486.87	9.9	224,998.20

*Percent of total.

Source: Division of Research and Statistics, Department of Public Instruction - Data reported to them on Annual Financial Report.

Current Expense Expenditures and Per Pupil Cost

Table 9 shows current expenditures per pupil for a five-year period from 1962-63 to 1966-67 for the Halifax County Administrative Unit.

TABLE 9

AMOUNTS EXPENDED AND PER PUPIL COST (PPC) BY SOURCE OF FUNDS	YEAR				
	1962-63	1963-64	1964-65*	1965-66	1966-67
ADA	8,990	9,148	9,214	9,361	9,908
State	$1,989,470.60	$2,139,386.56	$2,365,521.08	$2,619,096.06	$3,048,387.58
PPC	221.30	233.86	256.73	279.79	307.66
Federal	53,074.86	51,201.80	108,207.91	281,985.56	968,440.63
PPC	5.90	5.60	11.74	30.12	97.74
Local**	270,790.70	305,534.00	300,854.26	350,362.30	389,304.60
PPC	30.13	33.40	32.65	37.43	39.29
Total Expenditures	2,313,336.16	2,496,122.36	2,774,583.25	3,251,443.92	4,406,132.81
Total PPC	257.33	272.86	301.12	347.34	444.69

*Previous analysis of current expenditures have not included data from the Retirement System, and this fact should be kept in mind if comparisons between this and previous years are to be realistic since the data referred to caused significant increases in expenditures from State funds and total expenditures.

**Total amount expended on local voucher does not indicate actual expenditure.

Source: North Carolina Department of Public Instruction, Division of Research and Statistics.

Comparison of Current Expense (1966-67)

Table 10 gives local, State, and Federal per pupil expenditures in the Halifax County Unit compared with the State average for county units, city units and total State administrative units A national comparison is also made in the total column.

TABLE 10

AVERAGE	PER PUPIL EXPENDITURES BY SOURCE OF FUNDS			
	STATE	FEDERAL	LOCAL	TOTAL
Halifax County Unit	$307.66	$97.74	$39.29	$444.69
N. C. Counties	294.38	70.21	62.22	426.81
N. C. Cities	286.43	53.79	84.69	424.91
N. C. Total	292.18	65.66	68.45	426.29
U. S.				573.00

Source: Division of Research and Statistics, Department of Public Instruction.

Capital Outlay Expenditures

Table 11 shows the amount of funds spent by the Halifax County Unit for capital outlay purposes divided by local, State and Federal expenditures for the years 1962-1967.

TABLE 11

YEAR	ADA	CAPITAL OUTLAY SOURCE							
		LOCAL	PPC	STATE	PPC	FEDERAL	PPC	TOTAL EXPENDITURES	TOTAL PPC
1962-63	8.990	$111,020.47	$12.35	$	$	$ 11,708.61	$ 1.30	$122,729.08	$13.65
1963-64	9.148	196,441.92	21.47			6,568.88	.72	203,010.80	22.19
1964-65	9.214	175,633.22	19.06			10,320.95	1.12	185,954.17	20.18
1965-66	9.361	222,568.38	23.78	143,734.84	15.35	46,301.87	4.95	412,605.09	44.08
1966-67	9.908	200,180.08	20.20	138,416.44	13.97	493,675.92	49.83	832,272.44	84.00

Source: Division of Research and Statistics, Department of Public Instruction.

Comparison of Expenditures

Table 12 makes a five-year comparison of expenditures (per pupil) of current expense, capital outlay and debt service for the Halifax County Administrative Unit.

TABLE 12

	YEAR				
	1962-63	1963-64	1964-65	1965-66	1966-67
Amount of Local Budget for Current Expense (Per Pupil)	$ 30.13	$ 33.40	$ 32.65	$ 37.43	$ 39.29
Amount of Local Budget for Annual C. O. (Per Pupil)	12.35	21.47	19.06	23.78	20.20
Amount of Local Budget for Debt Service (Per Pupil)	15.49	11.93	13.70	12.37	12.72

Source: Division of Research and Statistics, Department of Public Instruction.

THE SCHOOL POPULATION

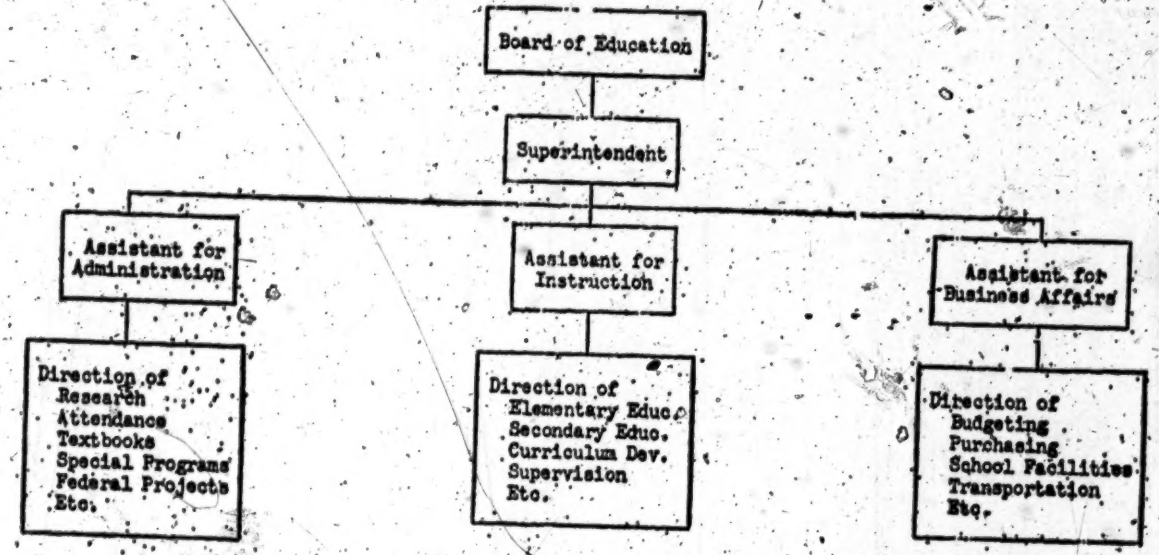
The increasing need for well educated and highly skilled personnel in our increasingly complex and technical world demands that school systems be competently and adequately staffed.

It is also important, in terms of efficiency and economy, that school systems have a sufficient number of pupils in the system as well as in any designated school.

It has been generally accepted that a school system (administrative unit) should have a minimum of 10,000 pupils and a suggested 15,000 to 20,000 pupils in order to provide a full range of educational services. A school system of approximately 10,000 pupils can justify the staff positions as suggested below:

FIGURE 7

Staff Functions and Relationships
in a School System of 10,000 Pupils



Source: Division of Survey and Field Services, George Peabody College for Teachers, Nashville, Tennessee, Rockbridge County and Buena Vista Public Schools. (A survey in 1967) page 36.

Central Administrative Personnel (Halifax County)
Halifax

Table 13 shows the number of central office personnel that serves the Halifax Administrative Unit.

TABLE 13

TITLE	NUMBER
Superintendent	1
Associate Superintendent	1
Supervisors	
Other Instructional Services	3
Attendance Counselors	
Secretarial	6
Maintenance	19
Food Service	2
Transportation	9
ESEA Central Office Personnel	11
Total	52

Source: Local Administrative Unit, 1967-68.

Instructional Personnel

Table 14 gives a detailed listing of instructional personnel for all schools in the county unit.

TABLE 14

SCHOOLS	ORGANIZATIONAL LEVEL		TOTAL NUMBER TEACHERS AND PRINCIPALS	SPECIAL AREA TEACHERS														
	ELEM.	H.S.		ESEA TEACHERS	TEACHER AIDES	MUSIC	LIBRARY	IMPROVEMENT PROJECT	ART	GUIDANCE	ACADEMICALLY TALENTED	EDUCABLE	SPECIAL ED. TRAINABLE	VOCATIONAL	DRIVER EDUCATION	SPEECH AND HEARING
Aurelian Springs 1-12	9	11	20				1							2		1
Bakers 1-8	13		13	1			1						1			
Brawley 1-12	20	25	45	2		1	1			1			1	3		
Dawson 1-8	18		18	1									1			
Eastman 1-12	17	20	37	2		1	1			1			1	3		
Enfield 1-12	12	11	23				1						1	2		
Everetts 1-8	20		20	1									1			1
Hollister 1-8	13		13	1												
Inborden High 9-12		16	16	1										2		
Inborden Elem. 1-8	37		37	1			1					1				
Chaloner 1-12	21	15	36	2		1	1						1	3		
McIver 1-12	16	13	29	2			1						1	2		
Pittman 1-8	18		18	1									1			
Scotland Neck 1-12	21	18	39			1	1			1				5		
T. as Shields 1-8	10		10	1									1			
Tillery Chapel 1-8	12		12	1												1
White Oak 1-8	12		12	1												
William R. Davie 1-12	28	16	44				1				1		1	3		
Totals	297	145	442	18		4	10			3	1	1	11	25		3

Source: Local Administrative Unit, 1967-68.

Table 15 gives the number and type of professional personnel by major source of funds for the county administrative unit for 1967-68.

TABLE 15

PROFESSIONAL PERSONNEL	NUMBER BY SOURCE OF FUNDS				TOTAL
	LOCAL	STATE	FEDERAL	VOCATIONAL*	
Superintendent		1			1
Assistant Superintendent		1			1
Supervisors	1	3			4
Attendance Counselors					
Principals					
Elementary		9			9
High School		9			9
Teachers					
Elementary		269	19		288
High School	4	102	5		111
Vocational Personnel				25	25
Driver Education	1				1
Other Personnel					
Total	6**	394	24	25	449

*Combination of local, state, and federal funds.
**The unit has four positions paid entirely from local funds, 1968-69.
Source: Division of Research and Statistics, Department of Public Instruction.

Summary of Professional Personnel

Table 16 gives a summary of professional personnel for the Halifax County Administrative Unit.

TABLE 16

PERSONNEL TYPE	NUMBER	PERCENT
Men Employed	128	28.3
Personnel Holding Less Than Class "A" Certificate	9	2.0
Personnel Not Having Scheduled Teaching Assignment	24	5.3
Personnel Teaching "Out of Certificate" Field	3	0.7
Personnel Paid Entirely From Local Funds	1	0.2
Personnel Receiving Local Salary Supplement	5	1.1
Personnel Not in Unit Last Year	72	15.9
"Brand New" Teachers	50	11.0
"Former" Teachers	6	1.3

Source: North Carolina Public School Survey - Fall, 1967.

Membership

Table 17 gives the 1968-69 membership at the end of the second week of school by grade for each school in the county unit.

TABLE 17

SCHOOL	1	2	3	4	5	6	7	8	SP. ED.	TOTAL ELEM.	9	10	11	12	TOTAL SEC.	GRAND TOTAL
Aurelian Springs*	28	25	28	20	30	20	78	86		315	54	44	44	46	188	503
Bakers	27	34	36	29	43	38	33	34	9	283						283
Brawley	60	59	54	49	66	61			15	364	228	182	154	118	682	1,046
Dawson	49	51	51	48	59	50	62	63	15	448						448
Eastman	50	58	41	65	46	54	59	59		432	169	146	108	97	520	952
Enfield*	37	32	32	37	44	39	154	53		428	50	33	35	33	151	579
Everetts	56	66	62	67	57	50	60	36	16	470						470
Hollister	36	45	38	44	39	42	47	40		331						331
Inborden Elem.	136	115	123	146	136	145		133	15	949						949
Inborden High											219	114	68	68	469	469
John A. Chaloner	64	61	70	52	74	62			10	393	92	74	63	58	287	680
McIver	51	50	51	47	51	52			10	312	89	75	56	40	260	572
Pittman	58	56	53	56	45	57	33	46	16	420						420
Scotland Neck*	70	73	54	61	82	62	127	148		677	82	66	74	80	302	979
Thomas Shields	29	21	23	24	24	28	18	20	16	203						203
Tillery Chapel	28	43	39	34	29	28	39	32		272						272
White Oak	48	41	40	31	35	39	24	30	16	304						304
William R. Davie*	87	100	75	86	88	85	170	143		834	98	62	71	51	282	1,116
Totals	914	930	870	896	948	912	904	923	138	7,435	1,081	796	673	591	3,141	10,576

*Predominantly white schools.

Source: Local Administrative Unit.

Pupil Projections

Table 18 gives the pupil population projections through 1975-76 by grade for the Halifax County Administrative Unit. These projections have been made through the use of the retention ratio method and users should remember that many factors can change the projections. Therefore, the projections should be made yearly.

TABLE 18

YEAR	GRADES																		
	1	2	3	4	5	6	7	8	9	10	11	12	SP. ED. 1-8	1-6	1-8	7-9	7-12	9-12	10-12	1-12
1963-64	1116	1067	1045	1133	1042	1010	944	894	855	689	492	420	56	6469	8307	2693	4294	2456	1601	10763
1964-65	1106	995	1055	1005	1115	963	966	901	847	739	593	473	83	6322	8189	2714	4519	2652	1805	10841
1965-66	1031	1010	971	987	985	1058	931	904	839	699	576	527	93	6135	7970	2674	4476	2641	1802	10611
1966-67	1017	973	965	960	983	1006	1059	915	937	809	651	576	165	6069	8043	2911	4947	2973	2036	11016
1967-68	1013	924	948	987	941	937	981	996	980	750	677	568	135	5825	7802	2957	4952	2975	1995	10777
1968-69	1057	922	906	[illegible]	918	903	918	932	996	843	638	630		5616	7466	2846	4857	3107	2111	10573
1969-70	1057	962	904	870	901	881	885	872	932	857	717	593		5575	7332	2689	4856	3099	2167	10431
1970-71	1057	962	943	868	861	865	863	841	872	802	728	667		5556	7260	2576	4773	3069	2197	10329
1971-72	1057	962	943	905	859	827	848	820	841	750	682	677		5553	7221	2509	4618	2950	2109	10171
1972-73	1057	962	943	905	896	825	810	806	820	723	638	634		5588	7204	2436	4431	2815	1995	10019
1973-74	1057	962	943	905	896	860	809	770	806	705	615	593		5623	7202	2385	4298	2719	1913	9921
1974-75	1057	962	943	905	896	860	843	769	770	693	599	572		5623	7235	2382	4266	2634	1864	9869
1975-76	1057	962	943	905	896	860	843	801	769	662	589	557		5623	7267	2413	4221	2577	1808	9844

Source: Division of Research and Statistics.

Resident Pupils Attending Other Schools

Table 19 gives the number of resident pupils that attend school in other administrative units.

TABLE 19

OTHER ADMINISTRATIVE UNITS	NAME OF SCHOOL	NUMBER ELEMENTARY PUPILS (1-8)	NUMBER SECONDARY PUPILS (9-12)	TOTAL PUPILS
Warren County	Haliwa	148		148
Warren County	Littleton	94	65	159
Nash County	Enfield Academy	65	10	75*
Total		307	75	382

*Estimated 1968-69.

Source: Local Administrative Unit.

Nonresident Pupils Attending Halifax County Schools

Table 20 gives the number of nonresident pupils attending school in the Halifax County Administrative Unit.

TABLE 20

SCHOOL	NUMBER ELEMENTARY 1-8	NUMBER SECONDARY 9-12	TOTAL
William R. Davie	50	15	65

Source: Local Administrative Unit.

Summary of High School Graduates

Table 21 shows a five-year summary of all high school graduates in the county administrative unit.

TABLE 21

	YEAR				
	1962-63 1958-59*	1963-64 1959-60*	1964-65 1960-61*	1965-66 1961-62*	1966-67 1962-63*
Number of High School Graduates	389	411	453	578	552
Enrollment of Eight Grade Four Years Preceding	727	802	799	886	960
Number and Percent of Graduates Entering College					
Four-Year College: No.	72	91	122	129	84
%	18.5	22.1	26.9	22.3	15.2
Two-Year College or Its Equivalent: No.	12	17	17	12	18
%	3.1	4.1	3.8	2.1	3.3
Number and Percent of Graduates Continuing Education or Training Other Than College: No.	22	32	27	69	55
%	5.6	7.8	5.9	11.9	10.0
Number and Percent of Graduates Entering Military Service or Gainfully Employed					
Military: No.	37	22	19	11	17
%	9.5	5.4	4.2	1.9	3.1
Employed: No.	154	182	153	195	251
%	39.6	44.3	33.8	33.8	45.5
Number and Percent of Graduates Not Accounted For: No.	92	67	115	162	125
%	23.7	16.3	25.4	28.0	22.6

*Year graduates were in eighth grade.

Source: Principal's Preliminary Reports, Follow-Up Survey North Carolina High School Graduates, and compilation by North Carolina Department of Public Instruction, Division of Research and Statistics.

Pupil-Teacher Ratio

Table 22 gives the 1967-68 professional staff-pupil ratio for the county unit. Table 23 gives the classroom teacher-pupil ratio for the same period.

TABLE 22

ITEM	NORTH CAROLINA	HALIFAX COUNTY
Enrollment	1,193,257	10,979
Total Professional Staff	52,847	453
Professional Staff-Pupil Ratio	22.6	24.2

Source: Division of Research and Statistics, Department of Public Instruction.

TABLE 23

ITEM	NORTH CAROLINA	HALIFAX COUNTY
Enrollment	1,193,257	10,979
Total Classroom Teachers	47,893	429
Classroom Teacher-Pupil Ratio	24.9	25.6

Source: Department of Research, NCEA.

Auxiliary Personnel

Table 24 gives the auxiliary personnel by school.

TABLE 24

SCHOOL	CUSTODIANS		SECRETARIES	FOOD SERVICE PERSONNEL	BUS DRIVERS	
	MALE	FEMALE			STUDENT	ADULT
Aurelian Springs	1	1	1	6	9	
Bakers	1	1	1	6	1	
Brawley	2	1	1	10	14	
Dawson	2	1	1	7	5	1
Eastman	1	2	1	10	15	
Enfield	1	2	1	5	6	
Everetts	1	1	1	6	5	
Hollister	1	1	1	4	2	
Inborden High	1	1	1	10	10	
Inborden Elem.		2	1			
J. A. Chaloner	1	2	1	6	6	
McIver	1	2	1	6	8	
Pittman	1	1	1	6	2	
Scotland Neck	3	1	1	8	10	
Thomas Shields	1	1	1	4	1	
Tillery Chapel	1	1	1	5		2
White Oak	1	1	1	7	2	
William R. Davie	1	2	1	12	8	

Source: Local Administrative Unit, 1967-68

THE SCHOOL SYSTEM

This section of the report is concerned with the school organization, instructional program, library services, special education, accreditation, food services, and transportation.

Organization

There are eighteen separate schools in the Halifax County Administrative Unit. The basic plan of organization is the 8-4 plan. Out of the eighteen schools, eight are union schools; one is a high school; and nine are elementary schools.

Accreditation

Table 25 lists the schools in the Halifax County Administrative Unit and gives the year accredited.

TABLE 25

SCHOOL	STATE DEPARTMENT OF PUBLIC INSTRUCTION		SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS	
	ELEMENTARY	SECONDARY	ELEMENTARY	SECONDARY
Aurelian Springs	Full[1]	Full[2]		
Bakers	Provisional[4]			
Brawley	Provisional[4]	1936[5]		
Dawson	Full[1]			
Eastman	Provisional[4]	1931[5]		
Enfield	Full[1]	Full[2]		
Everetts	N. A.			
Hollister	Provisional[4]			
Inborden Elem.	N. A.			
Inborden High		1954[5]		
John A. Chaloner	1934 Provisional[3]	N. A.		
McIver	Provisional[4]	1941[5]		
Pittman	Provisional[4]			
Scotland Neck	Full[1]	Full[2]		
Thomas Shields	Full[1]			
Tillery Chapel	Provisional[4]			
White Oak	Provisional[4]			
William R. Davie	1954[5]	1941[5]		

[1]Reaccredited 1967
[2]Reaccredited 1968
[3]Provisionally reaccredited 1968
[4]Provisional initial accreditation 1968
[5]Not reevaluated under current standards of accreditation.
N. A. - not accredited

Source: Local Administrative Unit, 1968-69.

Secondary Curriculum Course Offerings

Table 26 shows the number of courses offered at each secondary school in the county unit. It is generally agreed that a secondary school should be large enough to provide a minimum of three times as many courses as the school requires for graduation. In North Carolina a minimum of sixteen units is required for graduation; consequently, all high schools in North Carolina should strive to offer a minimum of 48 courses.

TABLE 26

SCHOOLS	COURSE OFFERINGS															
	ENGLISH	MATHEMATICS	SCIENCE	SOCIAL STUDIES	FRENCH	SPANISH	LATIN	BUSINESS	AGRICULTURE	HOME ECONOMICS	TRADE AND INDUSTRIES	MUSIC	PHYSICAL EDUCATION	HEALTH	TOTALS
Aurelian Springs	4	5	3	6	2	-	-	5	4	4	-	-	1	1	35
Brawley	5	6	3	8	2	1	-	5	5	3	2	3	1	1	44
Eastman	5	6	4	4	1	-	-	4	5	3	-	4	1	2	39
Enfield	4	6	3	5	2	-	-	3	3	4	-	-	1	1	32
Inborden High	5	6	3	4	2	-	-	5	3	3	-	-	1	1	33
John A. Chaloner	4	4	4	5	1	-	-	3	1	2	-	2	1	1	28
McIver	5	4	5	3	1	-	-	3	4	3	-	1	1	1	31
Scotland Neck	4	6	4	5	3	-	-	4	5	3	2	1	1	1	39
William R. Davie	6	4	3	5	2	-	-	5	5	3	-	-	2	1	36

Source: North Carolina Principal's Annual Report - 1967-68.

Selected Library Data

Table 27 shows the number of books and the number of books per pupil for each school in the county unit. It also shows various information relative to the librarian.

TABLE 27

SCHOOL	LIBRARY BOOKS		ENROLLMENT	PERIODS SERVED BY LIBRARIAN	LIBRARIAN CERTIFIED
	TOTAL NUMBER	AVERAGE NUMBER PER PUPIL			
Aurelian Springs	3,740	10	393	Full time	No
Bakers	2,709	8	319	Library aide	
Brawley	9,237	8	1,152	Full time	Yes
Dawson	4,589	10	475	Library aide	
Eastman	7,925	8	958	Full time	
Enfield	4,874	10	482	Full time	Not reported
Everetts	5,279	10	520	Library aide	
Hollister	4,250	12	362	Library aide	
Inborden Elem.	6,000	6	1,067	Full time	Yes
Inborden High	3,800	9	418	Library aide	
John A. Chaloner	9,367	11	844	Full time	No
McIver	6,859	10	682	Full time	No
Pittman	4,002	8	495	Library aide	
Scotland Neck	7,872	9	875	Full time	No
Thomas Shields	2,823	11	251	Library aide	
Tillery Chapel	3,019	11	284	Library aide	
White Oak	2,977	9	334	Library aide	
William R. Davie	10,131	10	999	Full time	Yes

Source: Department of Public Instruction, 1967-68.

Special Education

Table 28 shows the number of teachers assigned to each of the special education programs

TABLE 28

PROGRAM	NUMBER OF TEACHERS
Educable	10
Trainable	None
Speech and Hearing	4
Other Programs	None

Source: Department of Public Instruction. 1967-68.

Food Service

Table 29 shows information relative to the food service operation in the Halifax County Unit.

TABLE 29

SCHOOL	ADA ENROLLMENT	PERCENT PARTICIPATION	TYPE OF LUNCH PROGRAM	SANITATION RATING	PUPIL LABOR USED HOW MANY	PRESENT MEAL LOAD	ADULT LABOR	EQUIPMENT	DINING SPACE	KITCHEN SPACE
Auralian Springs	504	92.1	Type A	4-30-68 93.0	0	405	A	A	F	A
Bakers	283	99.3	Type A	4-27-68 96.5	0	271	Excessive	A	G	A
Brawley	1046	97.8	Type A	4-22-68 93.5	0	875	Over	G	A	G
Dawson	448	99.8	Type A	4-22-68 95.0	0	460	Over	A	G	A
Eastman	957	93.2	Type A	7-11-68 92.5	1	820	Over	G	F	G
Enfield	579	90.4	Type A	4-23-68 94.0	0	547	A	F	F	A
Everetts	474	95.6	Type A	4-29-68 91.0	0	438	Excessive	A	A	A
Hollister	334	96.0	Type A	4-24-68 98.0	0	260	A	A	A	A
Inborden	1414	86.6	Type A	4-23-68 92.5	2	1210	A	F	F	A
John A. Chaloner	684	65.6	Type A	4-30-68 84.5	1	482	A	F	F	F
McIver	567	91.3	Type A	4-29-68 95.5	0	510	A	F	F	G
Pittman	424	99.5	Type A	4-24-68 96.0	1	386	Over	A	A	A
Scotland Neck	979	74.0	Type A	7-9-68 92.0	2	765	Excessive	F	F	F
Thomas Shields	203	97.3	Type A	4-22-68 90.0	1	205	Over	G	G	A
Tillery Chapel	272	99.2	Type A	2-5-68 96.5	1	263	Over	A	G	A
White Oak	305	96.8	Type A	4-24-68 95.0	1	280	A	A	A	G
William R. Davie	1121	85.5	Type A	7-8-68 93.0	1	997	Excessive	F	F	F

Code: G - Good, A - Adequate, F - Fair, P - Poor.

Source: School Food Services, Department of Public Instruction (September 1968).

Selected Transportation Data

Table 30 shows the number of buses and the number of students transported.

TABLE 30

SCHOOL	NUMBER OF BUSES	NUMBER OF PUPILS	
		ELEMENTARY	SECONDARY
McIver	8	479	189
Aurelian Springs	9	192	157
Hollister Elementary	2	105	19
Bakers	1	102	12
Thomas Shields	1	28	8
Enfield Graded	6	100	37
Pittman	2	88	
Tillery Chapel	2	169	
Brawley	14	935	520
Everetts	5	253	
Ralph J. Bunche Elementary	9	564	288
Weldon	5	278	113
White Oak	2	129	
Dawson	6	302	62
Eastman	15	944	282
William R. Davie	8	636	219
Scotland Neck	10	232	139
Inborden High	10	601	194
John Armstrong Chaloner	6	427	220
Ralph J. Bunche High	9	561	288
Total	121	7,125	2,747
Grand Total (Elementary and High School)		9,872	

Source: Principal's Monthly Bus Report, 1967-68.

SCHOOL FACILITIES

Each school was visited by the Survey Committee for the purpose of determining space adequacy and to evaluate facilities in terms of national and state standards.

The following section gives general information for each school, construction data for each building and major addition based on the year of construction and condition, and a summary for each plant. An engineering evaluation for each building is also included.

Standards by which the adequacy of sites and classrooms were determined, as found in the summary of this section and in other parts of the report, are as follows:

School Sites—Sites were evaluated by standards set by the Council of Educational Facility Planners. The Council suggests the following as minimums to which all should strive but most should exceed.

- Elementary Schools—Ten acres plus an additional acre for each 100 pupils of projected ultimate maximum enrollment.
- Junior High Schools—Twenty acres plus an additional acre for each 100 pupils of projected ultimate maxium enrollment.
- Senior High Schools—Thirty acres plus an additional acre for each 100 pupils of projected ultimate maximum enrollment.

Classrooms—The recommended minimum size for an elementary classroom is 750 square feet. Larger classrooms are more desirable. Secondary teaching spaces were evaluated by the Committee based upon space adequacy for the activity being taught.

Aurelian Springs

- General Information
  - Size of site—13.6 acres
  - Grades housed—1-12
  - Number of professional staff—25; 13 elementary and 12 secondary
  - Year built—1922; additions—1925, 1929, 1934, 1935, 1948, 1959

- Membership (2nd week)—503; 315 elementary and 188 secondary
- Mobile units—2

- Construction Data
  - *1922*
    - 4 classrooms—poor
    - Auditorium—poor
  - *1925*
    - 4 classrooms—poor
    - 1 library—poor
  - *1929*
    - 5 classrooms—poor
    - Library—poor
  - *1934*
    - 3 classrooms—poor
    - 3 classrooms—fair (originally an old gym)
  - *1935*
    - 1 classroom—poor
    - 1 shop—fair (enlarged in 1952)
  - *1948*
    - Gym—fair
    - Cafeteria—fair
  - *1959*
    - 3 classrooms—good

- Engineering Evaluation (On site water and sewerage)
  - The old, 1934, wood frame physical education building is a substandard unit in nearly all respects except for the 1961 boiler room plant addition. Upgrading this building to satisfactory level is not believed to be economically feasible.
  - The 1922, single story, high school-auditorium building is of "ordinary" construction and received additions in the late 1920's and early 1930's. Deficiencies include considerable floor sagging in various locations, a specific floor weakness near the center of the auditorium which should be in-

vestigated, past problems with termites, and substandard classroom lighting. Major renovation of this unit for long-term use would be difficult to justify on an economic basis.

- The 1935, single story, structurally sound, shop building with its small 1952 addition is of masonry block construction with a wooden roof system. A new roof covering was being installed. The general condition of this building is considered to be fair with the bare concrete restroom floor classed as poor. Short-range use is considered feasible. Major renovation to meet modern standards for long-range use is considered economically unwise.
- The 1948 gymnasium-cafeteria building is of mixed construction and is in generally fair condition. A few minor wall cracks were noted but the basic structure appears to be sound. Upgrading of the soft tile kitchen floor and the bare concrete gymnasium restroom floors with hard tile is recommended. An exhaust hood at the dishwashing area is needed to reduce the deterioration of the adjacent plastered wall. Major renovation of this unit for long-range use would probably be difficult to justify economically. Heat is supplied from this building to the small 1959 primary building.
- The single story, 1959, three classroom primary building is a modern, fire-resistive, structurally sound unit in good condition.

- Summary (Aurelian Springs)
  - Size of site—below minimum standards
  - Classrooms—7 meet minimum size standards, 16 do not
  - Library—both are inadequate
  - Lunchroom—adequate
  - Gymnasium—adequate
  - Auditorium—adequate

Bakers Elementary

- General Information
  - Size of site—17.64 acres
  - Grades housed—1-8

- Number of professional staff—12
- Year built—1959; addition—1961
- Membership (2nd week)—283
- Mobile units—0

- Construction Data
  - *1959*
    - 10 classrooms—good
    - Library—good
  - *1961*
    - 3 classrooms—good
    - Cafetorium—good

- Engineering Evaluation (On site water and sewerage)
  - The two buildings comprising this facility are of fire-resistive construction and were built in 1959-1961. The general condition and structural soundness appears to be good. No major problems were noted.

- Summary (Bakers Elementary)
  - Size of site—meets minimum standards
  - Classrooms—meet minimum size standards
  - Library—adequate
  - Cafetorium—adequate

Brawley

- General Information
  - Size of site—18.8 acres
  - Grades housed—1-12
  - Number of professional staff—40; 14 elementary and 26 secondary
  - Year built—1926; additions—1937, 1942, 1951, 1954, 1960, 1968
  - Membership (2nd week)—1046; 364 elementary and 682 secondary
  - Mobile units—5

- Construction Data
  - *1926*

- 8 classrooms—fair to poor
- 1 library—fair to poor

- *1937*
  - 8 classrooms—fair to poor
- *1942* (shop added in 1954)
  - 2 classrooms—fair
  - 1 shop—fair
- *1951*
  - 5 classrooms—fair
  - 1 library—fair
- *1955*
  - 5 classrooms—fair
- *1960*
  - Gymnatorium—good
  - 4 classrooms—good
- *1968*
  - Cafeteria—good

- Engineering Evaluation (Municipal water and sewerage)
  - The 1926, elementary building of ordinary construction appears to be structurally sound. Restrooms were added in 1954. This building is in generally fair condition. Heating units are needed in the restrooms and better downspout drainage away from the building should be provided. The heating plant supplies heat to the adjacent 1937 building also. Minor renovation and normal upkeep for medium-range use is believed feasible. Some improvement in classroom lighting would be desirable when funds permit.
  - The 1937, single story, elementary classroom building of ordinary construction and with a stucco finish is a cheaply constructed, minimum cost unit. Though structurally sound and in fair condition upgrading to meet modern standards for medium to long-range use is not recommended. The interior is in need of painting for short-term use.
  - The 1942-1954, single story, structurally sound shop building is of ordinary construction with

painted block walls and a wooden roof system. The general condition is fair though it is also a minimum cost facility. The heating plant was recently converted from coal to oil. The shop equipment appears to be minimum. Major renovation for long-term use would probably be difficult to justify economically.

- The 1951-1955 single story high school building and the 1960-1968 gymnatorium-primary-cafeteria building are both structurally sound, fire-resistive units in good condition. No major problems were noted.

- Summary (Brawley)
  - Size of site—below minimum standards
  - Classrooms—15 meet minimum size standards; 17 do not
  - Library—secondary adequate; elementary inadequate
  - Lunchroom—adequate
  - Gymnatorium—adequate

Dawson Elementary

- General Information
  - Size of site—5.95 acres
  - Grades housed—1-8
  - Number of professional staff—18
  - Year built—1938; additions—1957, 1960
  - Membership (2nd week)—448
  - Mobile units—0

- Construction Data
  - *1938*
    - 4 classrooms—poor
    - Music room—poor
  - *1957*
    - 6 classrooms—fair to good
  - *1960*
    - 10 classrooms—fair to good
    - Library—fair to good
    - Cafetorium—fair to good

- Engineering Evaluation (On site water and sewerage)
  - The 1938, single story, classroom building is of ordinary construction with a stucco finish. This building is of minimum cost construction and though fairly well maintained has many deficiencies. Floors and ceilings are sagging. Lighting is very inadequate and no restroom facilities are present. Heat is supplied from the adjacent building. Renovation for continued use is not recommended.
  - The 1957-1960, single story, fire-resistive building is structurally sound and in good condition. No major problems were noted.
- Summary (Dawson Elementary)
  - Size of site—below minimum standards
  - Classrooms—16 meet minimum size standards; 4 do not.
  - Library—adequate
  - Cafetorium—adequate

Eastman

- General Information
  - Size of site—15.35 acres
  - Grades housed—1-12
  - Number of professional staff—38; 17 elementary and 21 secondary
  - Year built—1947; additions—1949, 1953, 1956, 1959, 1968
  - Membership (2nd week)—952; 432 elementary and 520 secondary
  - Mobile units—7
- Construction Data
  - *1947*
    - 1 classroom—poor
    - 1 shop—poor
  - *1949*
    - Gymnatorium—fair
  - *1953*

- 5 classrooms—fair
- Library—fair

1956

- 7 classrooms—fair

1959

- 13 classrooms—fair to good
- Library—fair to good

1968

- Cafetorium—good

• Engineering Evaluation (On site water and sewerage)

- The 1947, single story, structurally sound, painted masonry block shop building is of fire-resistive construction except for the wooden ceiling-roof structure. Relighting and the provision of a standard heating system to replace the room fired stoves are recomended for continued use.
- The 1953 and 1956, single story, structurally sound, high school buildings are of fire-resistive construction and in generally fair to good condition. Lighting is somewhat substandard in both buildings. Heating radiation in the 1953 building appears to be substandard and at times is probably not quite adequate. Upgrading these features for continued use is recommended. These buildings are heated from the adjacent gymnasium unit.
- The 1959, single story, primary building and the 1959, single story, elementary building are structurally sound, fire-resistive units in generally good condition. Both buildings are heated from a boiler room located in the primary unit. Space is available for a second boiler. Upgrading of classroom lighting in the elementary building is recommended when funds permit.
- The 1968, single story, structurally sound cafeteria building is a modern fire-resistive facility in good condition.
- The 1949 brick gymnatorium building is of fire-resistive construction except for the wooden ceil-

ing-roof deck. A small addition was made in 1956. The building appears to be structurally sound and in generally fair condition. Several areas of floor buckling need to be repaired. It is suspected that the unit heater fan noise is bothersome when the space is used as an auditorium. Minor alteration and normal upkeep for medium-range use is believed to be economically feasible.

- Summary (Eastman)
  - Size of site—below minimum standards
  - Classrooms—21 meet minimum size standards; 5 do not
  - Library—both are adequate
  - Cafetorium—adequate

Enfield

- General Information
  - Size of site—15.5 acres
  - Grades housed—1-12
  - Number of professional staff—28; 16 elementary and 12 secondary
  - Year built—1948; addition—1952
  - Membership (2nd week)—579; 428 elementary and 151 secondary
  - Mobile units—4
- Construction Data
  - *1948*
    - 20 classrooms—fair
    - Library—fair
    - Auditorium—fair
    - Cafeteria—fair
    - Gym—fair
  - *1952*
    - 1 classroom—fair
    - 1 shop—fair
- Engineering Evaluation (Municipal water and sewerage)
  - The 1948, two-story, high school and elementary building is of semi-fire-resistive construction and

received a small addition in 1951. The general condition is fair to good and structural soundness appears to be adequate except the cracks in the plaster ceiling of the auditorium should be investigated and repaired. Improvement in classroom lighting, the kitchen floor, as well as reinstalling student lockers in a standard manner would be desirable and are recommended. Space is available for a second heating boiler if needed.

- The 1952, single story, masonry block shop building is of ordinary construction and appears structurally sound. This is a fair building of minimum cost construction. The heating boiler has recently been converted from coal to oil.
- The 1948 structurally sound gymnasium building with masonry walls and wooden roof deck as well as the 1953 dressing room-boiler room addition is in fair to good condition. No major problems were noted.

- Summary (Enfield School)
  - Size of site—below minimum standards
  - Classrooms—8 meet minimum size standards; 13 do not
  - Library—adequate
  - Lunchroom—adequate
  - Gymnasium—adequate
  - Auditorium—adequate

Everetts Elementary

- General Information
  - Size of site—9.93 acres
  - Grades housed—1-8
  - Number of professional staff—22
  - Year built—1958; addition—1960
  - Membership (2nd week)—470
  - Mobile units—0
- Construction Data
  - *1958*
    - 14 classrooms—fair to good
    - Library—fair to good

- *1960*
- 6 classrooms—fair to good
- Cafetorium—fair to good

- Engineering Evaluation (On site water and sewerage)
  - This facility, constructed since 1958, consists of single story, structurally sound, modern, fire-resistive buildings in generally good condition. No major problems were noted.

- Summary (Everetts Elementary)
  - Size of site—below minimum standards
  - Classrooms—all meet minimum size standards
  - Library—adequate
  - Cafetorium—adequate

Hollister Elementary

- General Information
  - Size of site—7.26 acres
  - Grades housed—1-8
  - Number of professional staff—13
  - Year built—1960; addition—1966
  - Membership (2nd week)—331
  - Mobile units—0

- Construction Data
  - *1960*
    - 13 classrooms—fair to good
  - *1966*
    - Cafetorium—good
    - Library—good

- Engineering Evaluation (On site water and sewerage)
  - This facility, constructed since 1958, consists of single story, structurally sound, modern, fire-resistive buildings in generally good condition. No major problems were noted.

- Summary (Hollister Elementary)
  - Size of site—below minimum standards

- Classrooms—5 meet minimum size standards; 8 do not
- Library—adequate
- Cafetorium—adequate

Inborden Elementary

- General Information
  - Size of site—16.27 acres (total site for elementary and high school)
  - Grades housed—1-8
  - Number of professional staff—33
  - Year built—1948; additions—1954, 1956, 1960
  - Membership (2nd week)—949
  - Mobile units—4
- Construction Data
  - *1948*
    - 12 classrooms—fair to poor
    - Cafeteria—fair to poor
  - *1954*
    - 2 classrooms—fair
  - *1956*
    - 2 classrooms—fair
    - Library—fair
  - *1960*
    - 12 classrooms—good
- Engineering Evaluation (Municipal water and sewerage)
  - The 1948, single story, elementary building with small additions in 1954 and 1956 is in generally fair condition and is of semi-fire-resistive construction. The basic structure appears to be sound though one porch roof column needs straightening and anchoring at the bottom. Deficiencies include a poor interior appearance due to the old style mortar joints, lack of heat in restrooms and absence of a dining area. The kitchen floor covering the soft tile is also substandard. Major renovation for long-term use is believed questionable from an economic standpoint.

- The 1960, single story, fire-resistive, structurally sound elementary building is a modern unit in good condition. Space is available for a second boiler when needed.

- Summary (Inborden Elementary)
  - Size of site—below minimum standards
  - Classrooms—18 meet minimum size standards; 10 do not
  - Library—adequate
  - Lunchroom—inadequate

Inborden High

- General Information
  - Size of site—16.27 acres (total site for elementary and high school)
  - Grades housed—9-12
  - Number of professional staff—18
  - Year built—1951; additions—1955, 1961
  - Membership (2nd week)—469
  - Mobile units—7

- Construction Data
  - *1951*
    - 5 classrooms—fair
    - Library—fair
  - *1955*
    - 3 classrooms—fair
    - Gymnatorium—fair
  - *1961*
    - 1 classroom—fair to good
    - 1 shop—fair to good

- Engineering Evaluation (Municipal water and sewerage)
  - The 1951-1955, single story, fire-resistive high school building is structurally sound and in fair condition. Some corridor floor tile needs replacing. Improvement in classroom lighting would be

desirable. Heat is supplied from this building to the gymnasium. Minor renovation and normal upkeep for medium to long-range use is believed feasible.

- The 1955, structurally sound, fire-resistive, gymnatorium building is a modern facility in generally good condition.
- The 1961, single story, structurally sound shop building is of ordinary construction with block walls and a wooden roof system. Its general condition is fair to good. The interior appearance could be improved by painting. The heating plant was being converted from coal to oil.

- Summary (Inborden High)
  - Size of site—below minimum standards
  - Classrooms—5 meet minimum size standards; 4 do not
  - Library—adequate
  - Lunchroom—inadequate
  - Gymnatorium—adequate

John A. Chaloner

- General Information
  - Size of site—12.86 acres
  - Grades housed—1-12
  - Number of professional staff—31; 16 elementary and 15 secondary
  - Year built—1924; additions—1938, 1940, 1941, 1942, 1944, 1945, 1950, 1955, 1958
  - Membership (2nd week)—680; 393 elementary and 287 secondary
  - Mobile units—0
- Construction Data
  - *1924*
    - 5 classrooms—poor
    - Library—poor
    - Auditorium—poor
  - *1938*
    - 4 classrooms—poor

1940
- 1 classroom—poor
- 1 shop—poor

1941
- 7 classrooms—poor
- Cafeteria—poor

1942
- 1 classroom—poor

1944
- 1 music room—poor

1945
- Gym—poor

1950
- 2 classrooms—fair

1955
- 6 classrooms—fair to good

1958
- 9 classrooms—fair to good
- Library—fair to good

Engineering Evaluation (Municipal water and sewerage—assumed)

The single story, auditorium-classroom building of ordinary construction is believed to have been constructed in the early 1920's with various small additions completed over the years and as late as 1951. The structure appears sound since the recent replacement of the auditorium roof system. The overall general condition is classed as fair to poor. Some features such as restrooms and finishes on walls, floors, and ceilings are poor. Major renovation for medium to long-range use would be difficult to justify on an economic basis.

The shop building, the classroom-cafeteria building, the one room classroom building, and the band building are of ordinary construction and appear to have been constructed in the late 1930's or the 1940's. All of these buildings are poor substand-

ard facilities in nearly all respects. All have room fired stoves except the cafeteria-classroom unit. Upgrading to meet modern standards is not believed to be economically feasible.

- An occupied teacherage on the site was not evaluated but the double car shed adjacment to it was noted to be improperly built. The roof is believed to be in imminent danger of collapse. Removal from the site is recommended as soon as possible.
- The masonry block-wooden gymnasium building is believed to have been constructed in the 1940's with shower rooms and a heating plant added about 1954. This is a poor facility in nearly all respects except the heating system. Upgrading to meet present standards is not believed to be economically feasible.
- The single story 1954 primary building and the 1958, single story high school building are structurally sound, fire-resistive units in good condition. Space is available in the high school boiler room for two additional boilers.

- Sumary (John A. Chaloner)
  - Size of site—below minimum standards
  - Classrooms—18 meet minimum size standards; 17 do not
  - Library—both are adequate
  - Lunchroom—inadequate
  - Gymnasium—inadequate
  - Auditorium—adequate

McIver

- General Information
  - Size of site—9 acres
  - Grades housed—1-12 (minus grades 7-8)
  - Number of professional staff—26; 13 elementary and 13 secondary
  - Year built—1925; additions—1930, 1941, 1948, 1954, 1959, 1964, 1968

- Membership (2nd week)—572; 312 elementary and 260 secondary
- Mobile units—3

- Construction Data
  - *1925*
    - 6 classrooms—poor
  - *1930*
    - 4 classrooms—poor
  - *1941*
    - Band room—fair
    - 1 classroom—fair
    - 1 shop—fair
  - *1948*
    - Gym—poor to fair
  - *1954*
    - 2 classrooms—fair to good
    - Library—fair to good
  - *1959*
    - 8 classrooms—fair to good
  - *1964*
    - 6 classrooms—good
  - *1968*
    - Cafetorium—under construction

- Engineering Evaluation (Municipal water and on site sewerage)

  The 1925, single story grammar building with its 1930 two-classroom addition is of combustible, wood frame, brick veneer construction, and is a generally poor facility. Floor sagging, roof sagging, and wall movement in one classroom appears to be structurally unsound and serious in nature to the extent that repairs are believed to be required prior to use this fall. Upgrading this building for use even short range is not believed to be economically feasible.

The 1941-1946 structurally sound shop building is of masonry block and stucco construction and is in generally fair condition. Some improvement in lighting and replacement of the noisy unit heater in the shop classroom with more appropriate radiation is desirable. Major renovation of this building for long-range use would be difficult to justify economically.

The 1948, structurally sound, painted masonry block, gymnasium building received a new boiler room addition in 1964. The general condition of this unit is considered to be fair with the restrooms and shower dressing rooms poor due to their small size. The adjacent primary building is heated from this gymnaisum. Minor upgrading for continued use is considered to be economically feasible. Construction type is fire-resistive except for the wooden ceiling-roof deck.

The 1952, structurally sound, fire-resistive central boiler plant—central restroom building is in fair to good condition. Space does not appear to be available for increased heating capacity. All buildings on the site are heated from this plant except the gymnasium and primary buildings.

The 1954 and the 1959 single story, fire-resistive, high school buildings and the 1964 primary building appears to be structurally sound and in generally good condition. No major deficiencies were noted. A cafeteria addition to the primary building was under construction.

- Summary (McIver)

Size of site—below minimum standards
Classrooms—22 meet minimum size standards; 5 do not
Library—adequate
Gymnasium—adequate
Cafetorium—under construction

Pittman Elementary

- General Information
  - Size of site—11.31 acres
  - Grades housed—1-8
  - Number of professional staff—17
  - Year built—1959; addition—1960
  - Membership (2nd week)—420
  - Mobile units—0
- Construction Data
  - *1959*
    - 15 classrooms—good
    - Library—good
  - *1960*
    - Cafetorium—good
    - 1 classroom—good
- Engineering Evaluation (On site water and sewerage)
  - This facility, constructed since 1958, consists of single story, structurally sound, modern, fire-resistive buildings in generally good condition. No major problems were noted.
- Summary (Pittman Elementary)
  - Size of site—below minimum standards
  - Classrooms—all meet minimum size standards
  - Library—adequate
  - Cafetorium—adequate

Scotland Neck

- General Information
  - Size of site—4.6 acres (10.35 acres junior high site)
  - Grades housed—1-12
  - Number of professional staff—46; 27 elementary and 19 secondary

- Year built—1903; additions—1923, 1939, 1949, 1954, 1960
- Membership (2nd week)—979; 677 elementary and 302 secondary
- Mobile units—9

- Construction Data
  - *1903*
    - 12 classrooms—poor
    - Library—poor
  - *1923*
    - Cafeteria—poor to fair
    - 8 classrooms—poor to fair
    - Library—poor to fair
  - *1939*
    - 1 home economics lab—fair
    - 2 classrooms—fair
    - 1 shop—fair
    - Gym—fair
  - *1949*
    - 1 classroom—poor
  - *1954*
    - 4 classrooms—fair to good
    - Auditorium—fair to good
  - *1960* (junior high building)
    - 4 classrooms—good
    - Cafeteria-library—good

- Engineering Evaluation (Municipal water and sewerage)

  The 1903, multistory, elementary building is of ordinary construction with masonry exterior walls, wooden joists, and a slate roof. The basic structure appears to be sound though some floor sagging was noted and exterior mortar is beginning to soften. Other deficiencies include wooden stairways (stair towers are fireproof), deterioration of wooden roof overhangs, substandard classroom lighting, and a generally unattractive appearance.

Major renovation for medium to long-range use would be difficult to justify for economic reasons. This building is heated from the 1923 unit.

- The 1923, three story high school classroom-cafeteria building is of ordinary construction, appears structurally sound and is in generally fair condition as renovated. Deficiencies noted include wooden steps (in otherwise fireproof towers), some areas of cracked ceiling plaster, a soft tile kitchen floor, and the absence of any restroom facilities on the two upper floors. Use short range with normal upkeep is believed to be feasible.
- The 1939, single story, structurally sound gymnasium-vocational building is of ordinary construction with stucco finish and is in generally fair condition. The basement boiler room is substandard and damp. Use short to medium range with no major renovation is believed feasible.
- The small, 1949, structurally sound, single story, cold storage-classroom building is of semi-fire-resistive construction. The building appears to be suitable for storage use but the single classroom is substandard as an instructional space in most respects. Use for storage only is recommended.
- The 1954, single story, fire-resistive auditorium-primary classroom building is a modern unit in generally good condition. Space is available for a second boiler when needed.

• Summary (Scotland Neck)

- Size of site—below minimum standards
- Classrooms—10 meet minimum size standards; 22 do not
- Library—both are adequate
- Lunchroom—both are adequate
- Gymnasium—adequate
- Auditorium—adequate

Thomas Shields Elementary

- General Information
  - Size of site—9.33 acres
  - Grades housed—1-8
  - Number of professional staff—9
  - Year built—1957; additions—1958, 1961
  - Membership (2nd week)—203
  - Mobile units—0
- Construction Data
  - *1957*
    - 6 classrooms—good
  - *1958*
    - 4 classrooms—good
  - *1961*
    - Library—good
    - Cafetorium—good
- Engineering Evaluation (Municipal water, on site sewerage)
  - This single story, structurally sound, fire-resistive facility was constructed in stages during 1957 through 1961. No major problems were evident. Space can be made available for a second boiler if needed by rearranging the present equipment.
- Summary (Thomas Shields Elementary)
  - Size of site—below minimum standards
  - Classrooms—all meet minimum size standards
  - Library—adequate
  - Cafetorium—adequate

Tillery Chapel Elementary

- General Information
  - Size of site—7.21 acres
  - Grades housed—1-8
  - Number of professional staff—11
  - Year built—1932; additions—1957, 1962
  - Membership (2nd week)—272
  - Mobile units—0

- Construction Data
  - *1932*
    - 4 classrooms—fair
  - *1957*
    - 6 classrooms—good
  - *1962*
    - 1 classroom—good
    - Library—good
    - Cafetorium—good
- Engineering Evaluation (On site water and sewerage)
  - The 1932, single story, structurally sound, wood frame, brick veneer, elementary building has received various renovations in the past. Its general condition is good. Medium-range use with normal upkeep appears feasible.
  - The 1957-1962, single story, structurally sound, fire-resistive new elementary building is in good condition. Space is available for a second boiler when needed.
- Summary (Tillery Chapel Elementary)
  - Size of site—below minimum standards
  - Classrooms—all meet minimum size standards
  - Library—adequate
  - Cafetorium—adequate

White Oak Elementary

- General Information
  - Size of site—12 acres
  - Grades housed—1-8
  - Number of professional staff—13
  - Year built—1959; addition—1966
  - Membership (2nd week)—304
  - Mobile units—1

- Construction Data
  - *1959*
    - 10 classrooms—good
  - *1966*
    - 1 classroom—good
    - Library—good
    - Cafetorium—good
- Engineering Evaluation (On site water and sewerage)
  - This facility, constructed since 1958, consists of single story, structurally sound, modern, fire-resistive buildings in generally good condition. No major problems were noted.
- Summary (White Oak Elementary)
  - Size of site—slightly below minimum standards
  - Classrooms—all meet minimum size standards
  - Library—adequate
  - Cafetorium—adequate

William R. Davie

- General Information
  - Size of site—28.64 acres
  - Grades housed—1-12
  - Number of professional staff—47; 31 elementary and 16 secondary
  - Year built—1940; additions—1952, 1953, 1955, 1958, 1961
  - Membership (2nd week)—1,116; 834 elementary and 282 secondary
  - Mobile units—15
- Construction Data
  - *1940*
    - 11 classrooms—fair
    - 1 library—fair
    - Auditorium—fair

1952

- 4 classrooms—fair to good
- Library—fair to good

1953

- Shop—fair
- Cafeteria—fair
- Gym—fair

1955

- 5 classrooms—fair to good

1958

- 4 classrooms—fair to good

1961

- 2 classrooms—fair to good

- Engineering Evaluation (On site water and sewerage)

The 1940, structurally sound, elementary classroom-auditorium building has masonry block interior and exterior walls and wooden floor and roof systems. General condition is considered fair to good. Past renovation of lighting, wiring, and restrooms is evident. Several basement classrooms have low, but adequate, ceiling height. No major deficiencies were noted.

The 1940, masonry block, single story, shop building with its 1953 addition appears to be structurally sound and in generally fair condition. Upgrading of the restroom with hard tile is recommended. No major problems were noted. The heating boiler was being converted from coal to oil firing.

The 1953, single story, gymnasium-cafeteria building is of masonry block construction with a wooden roof system. The basic structure appears to be sound but considerable sagging of the covered walk and entrance roofs exists. Additional pipe columns and wooden support beams are believed needed. Some minor termite damage to the wooden

gymnasium floor was noticed. Replacement of the soft tile kitchen floor with hard tile is recommended when funds permit. The general condition of this building is classed as fair.

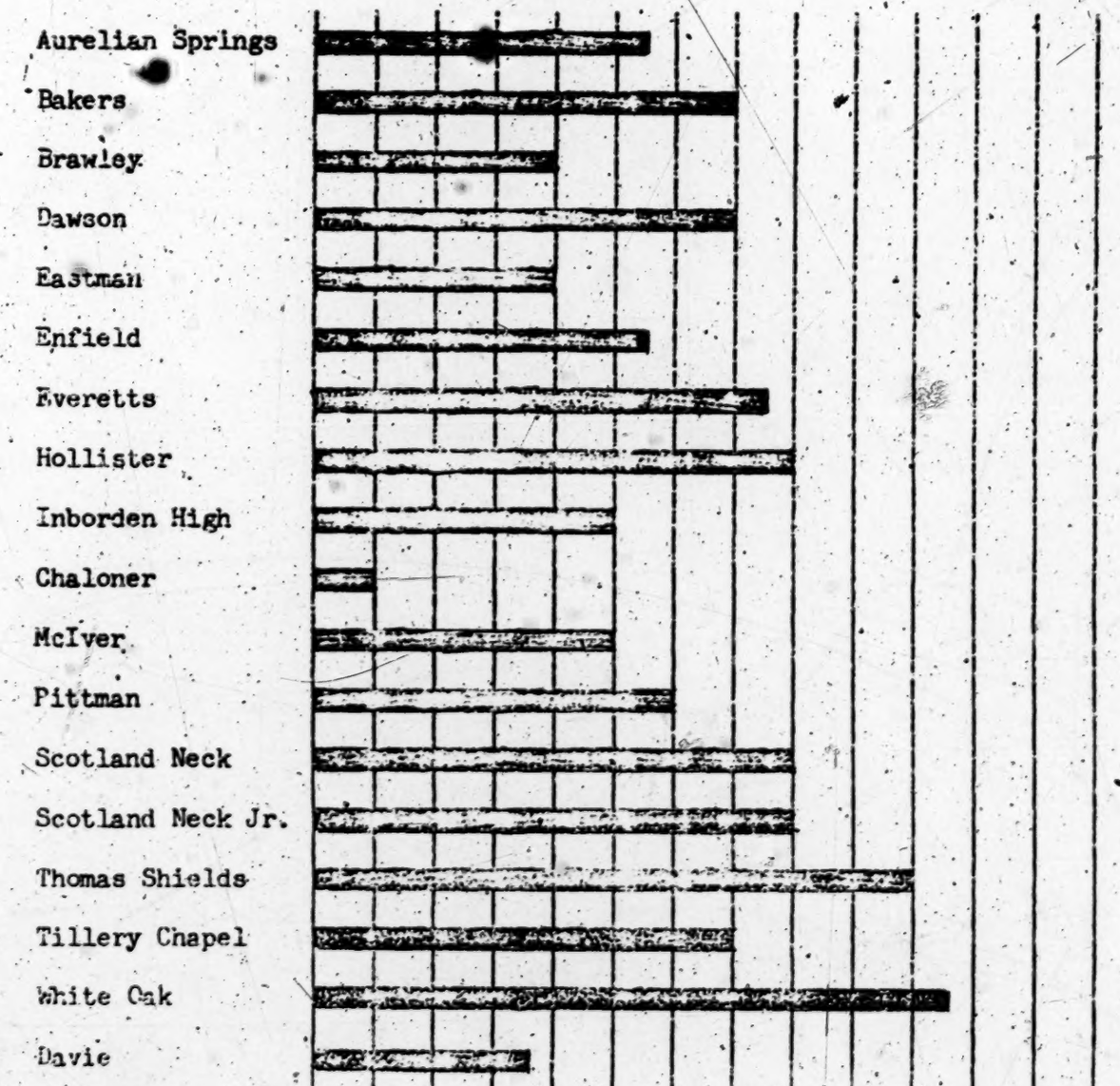
- The 1952, single story, high school building with additions in 1955 and 1963 and the 1958-1961 primary building are fire-resistive units in generally good condition. No major problems were noted.

- Summary (William R. Davie)
  - Size of site—below minimum standards
  - Classrooms—16 meet minimum size standards; 9 do not
  - Library—both are adequate
  - Lunchroom—adequate
  - Gymnasium—adequate
  - Auditorium—adequate

Sanitation Inspection Report

Figure 8 shows the sanitation grade given to each plant at the last inspection by the county sanitarian.

FIGURE 8



Source: Local Administrative Unit (Nov. - Feb., 1967-68).

Fire Hazards Inspection

Table 31 gives the date that each plant was inspected as prescribed by General Statute 115-150.

SCHOOLS	DATE OF LAST INSPECTION AUTHORITY (G. S. 115-150)	
	ELECTRICAL	FIRE
Aurelian Springs	6/12/68	5/68
Bakers	4/8/68	5/68
Brawley	4/19/68	5/68
Dawson	4/23/68	5/68
Eastman	6/10/68	5/68
Enfield	4/9/68	5/68
Everetts	6/6/68	5/68
Hollister	6/7/68	5/68
Inborden High	4/17/68	5/68
Inborden Elem.	4/17/68	5/68
Chaloner	5/16/68	5/68
McIver	6/14/68	5/68
Pittman	6/14/68	5/68
Scotland Neck (T & I)	4/10/68	5/68
Thomas Shields	4/8/68	5/68
Tillery Chapel	4/23/68	5/68
White Oak	6/7/68	5/68
William R. Davie	6/6/68	5/68

Source: Local Administrative Unit.

COMPILATION OF SECONDARY USE DATA
HALIFAX COUNTY

SCHOOL AND GRADES	ACRES	YEAR BUILT	ADDITIONS	MEMBERSHIP 2ND WEEK	NUMBER OF PROFESSIONAL STAFF	NUMBER OF TEACHING STATIONS	NUMBER OF CLASSROOMS	NUMBER MEETING MINIMUM SIZE STANDARDS: TEACHING STATIONS	NUMBER MEETING MINIMUM SIZE STANDARDS: CLASSROOMS	SPECIAL FACILITIES ADEQUACY: ADM. SPACE	LIBRARY	MULTI-PURPOSE	MUSIC	ART	GYM	AUDITORIUM	LUNCHROOM	COUNSELING SPACE	ADEQUACY OF SITE	MOBILE UNITS
Aurelian Springs 1-12	13.6	1922	1925, 29, 34, 35, 48, 59	E-315 S-188 503	E-13 S-12 25	26	23	9	7	I	E-I S-I	None	I	I	A	A	A	I	I	2
Brawley 1-12 (Minus grades 7-8)	18.8	1926	1937, 42, 51, 54, 55, 60, 68	E-364 S-682 1046	E-14 S-26 40	34	32	17	15	I	E-I S-A	None	I	I	Gymtorium A		A	I	I	5
Eastman 1-12	15.35	1947	1949, 53, 56, 59, 68	E-432 S-520 952	E-17 S-21 38	28	26	23	21	A	E-A S-A	None	I	I	Gymtorium A		A	I	I	7
Enfield 1-12	15.5	1948	1952	E-428 S-151 579	E-16 S-12 28	24	21	11	8	A	A	None	I	I	A	A	A	I	I	4
Enborden High 9-12	16.27	1951	1955, 61	469	18	11	9	7	5	A	A	None	I	I	Gymtorium A		I	I	I	7
John A. Chaloner 1-12 (Minus grades 7-8)	12.86	1924	1938, 40, 41, 42, 44, 45, 50, 53, 55	E-393 S-287 680	E-16 S-15 31	39	35	22	18	A	E-A S-A	None	I	I	I	A	I	I	I	0
Oliver 1-12 (Minus grades 7-8)	9	1925	1930, 41, 48, 54, 59, 64, 68	E-312 S-260 572	E-13 S-13 26	30	27	24	22	A	A	None	I	I	Gymtorium A		A*	I	I	3
[illegible] Rock 1-12	4.6 10.35[1]	1903	1923, 39, 49, 54, 60	E-677 S-302 979	E-27 S-19 46	35	32	13	10	A*	E-A JH-A SH-A	None	I	I	A	A	A A	I	I	9
William R. Davie 1-12	28.64	1940	1952, 53, 55, 58, 61	E-834 S-282 1116	E-31 S-16 47	29	26	19	16	A	E-A S-A	None	I	I	A	A	A	I	I	15

[1] Under construction
Junior High School

Codes: A - Adequate
I - Inadequate

COMPILATION OF ELEMENTARY USE DATA
HALIFAX COUNTY

SCHOOL AND GRADES	ACRES	YEAR BUILT	ADDITIONS	MEMBERSHIP 2ND WEEK	NUMBER PROFESSIONAL STAFF	PROFESSIONAL STAFF/PUPIL RATIO	NUMBER OF CLASSROOMS	NUMBER CLASSROOMS MEETING STANDARDS	MINIMUM NUMBER OF CLASSROOMS NEEDED	PUPIL CAPACITY[1]	SPECIAL FACILITIES ADEQUACY										MOBILE UNITS
											ADM. SPACE	LIBRARY	INSTRUCTIONAL MULTI-PURPOSE	MUSIC	ART	GYM OR MULTI-PURPOSE FOR PLAY	AUDITORIUM	LUNCHROOM	GYMNATORIUM	ADEQUACY OF SITE	
Akers 1-8	17.64	1959	1961	283	12	24:1	13	13	10	351	A	A	None	I	I	None	Cafetorium	A	None	A	0
Dawson 1-8	5.95	1938	1957, 60	448	18	25:1	20	16	17	540	A	A	None	I	I	None	Cafetorium	A	None	I	0
Heretta 1-8	9.93	1958	1960	470	22	21:1	20	20	17	540	A	A	None	I	I	None	Cafetorium	A	None	I	0
Hollister 1-8	7.26	1960	1966	331	13	25:1	13	5	12	351	A	A	None	I	I	None	Cafetorium	A	None	I	0
Inborden Elem. 1-8 (Uses grade 7)	16.27*	1948	1954 56,60	949	33	29:1	28	18	35	756	A	A	None	I	I	None	None	I	None	I	4
Pittman 1-8	11.31	1959	1960	420	17	25:1	16	16	16	432	A	A	None	I	I	None	Cafetorium	A	None	I	0
Thomas Shields 1-8	9.33	1957	1958, 61	203	9	23:1	10	10	8	270	A	A	None	I	I	None	Cafetorium	A	None	I	0
Tillery Chapel 1-8	7.21	1932	1957, 62	272	11	25:1	11	7	10	297	A	A	None	I	I	None	Cafetorium	A	None	I	0
White Oak 1-8	12.00	1959	1966	304	13	24:1	11	11	12	297	A	A	None	I	I	None	Cafetorium	A	None	I	1

*Total site for Inborden Elementary and High School

[1]The capacity for all elementary schools was computed on the basis of 27 pupils per teaching space.

Code: A - Adequate
I - Inadequate

May 15, 1969

Mr. Frank P. Shields, Chairman
Board of Education
Scotland Neck City Schools
P. O. Box 428
Scotland Neck, North Carolina

Dear Mr. Shields:

I regret that we have not been able to give you earlier a complete report of the tabulation of the free choice survey of students as it pertains to the Scotland Neck School Unit. This has been a tremendous task and we have been working diligently to get the information completed.

Based on 96.3% of the choice forms returned, the tabulation for those choosing Scotland Neck is as follows:

	White	Negro
Pupils Living Within Scotland Neck	362	143
Pupils Living in Halifax County Unit	351	26
Pupils Living in Scotland Neck—Grades 1-10 who requested a school located in Halifax County Unit		92
Totals	713	261

Assuming that the 92 who live in Scotland Neck and who are in grades 1-10 will not be allowed to attend a school outside of the Scotland Neck Unit, the total number as of this date is 974 which would be withdrawn from the Halifax County Unit and this number may be used by the office of the State Board of Education for allotment of teachers and division of school funds.

The survey shows also that there were 40 Negro students in grades eleven and twelve who live within the Scotland Neck Administrative Unit that have chosen Brawley School. We assume that these students will attend Brawley School. The survey shows that the students who attend school last year outside the Halifax County School Unit are as follows:

Enfield Academy	5
Rich Square	2
	7

The list of students by name and grade that chose the Scotland Neck School and those that live in the Scotland Neck School Administrative Unit and chose a school in Halifax County School Administrative Unit is being typed at present and will be mailed this afternoon.

Sincerely yours,

W. HENRY OVERMAN
Superintendent
Halifax County Schools

WHO:ar

STATE PLAN

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

December 17, 1968

Proposed Plan of School Organization for the 1969-70 School Year

Elementary	Grades	*Expected 1969-70 Pupil Enrollment		1969-70 Teachers 1-30	1-15	ESEA	Sp. Ed.	Total	Teachers 1968-69
Aurelian Springs	1-8	502	(166)	17	1	1	1	20	(24)
Bakers	1-8	393	(6)	13	1	1	0	15	(12)
Brawley	1-4 & 7-9	1,070	(330)	36	2	1	1	40	(40)
Dawson	1-8	614	(44)	20	1	1	1	23	(18)
Everetts	1-8	488	(300)	16	1	1	2	20	(21)
Hollister	1-7	333	(4)	11	1	1	0	13	(13)
Inborden (Elementary)	1-5	870	(160)	29	1	1	0	31	(50)
Inborden (Middle School)	6-8	480	(90)	16	1	1	1	19	
J. A. Chaloner	1-8	618	(270)	21	1	1	1	24	(31)
McIver	1-8	549	(94)	18	1	1	1	21	(26)
Pittman	1-7	409	(26)	14	1	1	1	17	(17)
Thomas Shields	1-8	408	(68)	14	1	1	0	16	(9)
Scotland Neck (Middle School)	5-6	255	(120)	9	1	1	1	12	(12)
Tillery Chapel	1-8	409	(31)	14	1	1	0	16	(10)
White Oak	1-7	316	(25)	11	1	1	0	13	(13)
ELEMENTARY TOTALS:		7,714	(1,784)	259	16	15	10	300	(296)

Proposed Plan of School Organization for the 1969-70 School Year—Continued

High Schools	Grades	Expected 1969-70 Pupil Enrollment		1969-70 Teachers 1-30	1-15	ESEA	Voc. & Sp. Ed.	Total	Teachers 1968-69
Davie	9-12	918	(330)	31	2	1	5	39	(47)
Eastman	8-12	690	(32)	23	1	1	6	31	(38)
Enfield	9-12	529	(120)	18	1	1	6	26	(28)
Scotland Neck	10-12	710	(205)	24	2	1	7	34	(34)
	HIGH SCHOOL TOTALS:	2,847	(687)	96	6	4	24	130	(147)
	TOTALS:	**10,561	(2,421)***	355	22	19	34	****430	****(443)

Total pupils enrolled (ADM) at end of 3rd month of school (1968-69): 10,413

White pupils enrolled (ADM) at end of 1st two weeks of school (1968-69): 2,357

*( ) are white students living in attendance area.

**Includes 94 elementary pupils now attending Littleton and 148 elementary pupils now attending Haliwa.

***Includes 94 pupils now attending Littleton.

****Speech Therapists (4) not shown.

Estimated Cost—General Control Scotland Neck
(based on 1,000 in ADM) on Present Standards

		1969-70	1970-71	Total
611-1	Superintendent S-0 & S-1	$ 8,208	$ 8,400	$16,608
611-2	Asst. Supt. —	—	—	—
612	Travel	240	240	480
613-1	Clerical Assistants	3,110	3,110	6,220
613-2	Property Clerks	—	—	—
614	Office Expense	400	400	800
615	Co. Board of Education	—	—	—
617	Attendance Counselors	—	—	—
	TOTAL GENERAL CONTROL	$11,958	$12,150	$24,108
	Decrease in Halifax Co.			
611-1	Superintendent S-8	($ 43)	($ 43)	($ 86)
611-2	Asst. Supt.	—	—	—
612	Travel	—	—	—
613-1	Clerical Assistants	(527)	(527)	(1,054)
613-2	Property Clerks	—	—	—
614	Office Expense	—	—	—
615	Co. Board of Education	—	—	—
617	Attendance Counselors	—	—	—
	TOTAL DECREASE	($570)	($570)	($1,140)
	Net Cost of General Control			
611-1	Superintendent	$ 8,165	$ 8,357	$16,522
611-2	Asst. Supt.	—	—	—
612	Travel	240	240	480
613-1	Clerical Assistants	2,583	2,583	5,166
613-2	Property Clerks	—	—	—
614	Office Expense	400	400	800
615	Co. Board of Education	—	—	—
617	Attendance Counselors	—	—	—
	TOTAL NET COST	$11,388	$11,580	$22,968

1967-68 ADM		
	Halifax County	10,810
	Roanoke Rapids	2,755
	Weldon	2,403
	TOTAL	15,968

February 19, 1969

The Honorable Julian R. Allsbrook
Representative of the 4th District
North Carolina State Legislative Building
Raleigh, North Carolina

Dear Senator Allsbrook:

We, the members of the Halifax County School Masters Club, are opposed to the proposed withdrawal of the Scotland Neck School from the Halifax County School Unit.

1. We oppose because we believe that the unit will be too small to have a sound educational program and to fulfill the recommendations set forth in the recent report of the Governor's Study Commission on the Public School System of North Carolina.

2. According to our information at this time, there is only one (1) school in the incorporated city limits, and if the school district be extended outside the city limits to include the former predominantly white Junior High School that it also be extended to include the predominantly Negro Brawley School.

Therefore, in the best interest of our children, we recommend that you vote against the proposed formation of a city school system for Scotland Neck, separate from the Halifax County School System.

Sincerely yours,

/s/ Forgan S. Berry
FORGAN S. BERRY
Principal

cc: Mr. Thorne Gregory—Chairman House Finance Committee
Mrs. Martha W. Evans—Senate Education Committee Chairman
Hon. Vernon E. White—Member of Sub-Committee on Education
Mr. Henry E. Frye—Twenty-sixth District, Guilford County
Mr. Craig Phillips—Superintendent, State Department of Public Instruction
Mrs. Jeraldine Nielson—Twenty-second District, Forsyth County
Mr. Albert J. Ellis—Representative, Sixth District, Onslow County

Feb. 7, 1969

Dear Mr. Phillips:

Contrary to the statement made by Rep. Thorne Gregory that there is no local opposition to the proposed city school system for Scotland Neck, I want to let you know that there is opposition, but none of the Scotland Neck City Officials have bothered to explain fully to local and county residents. Nor have they bothered to ask our opinions.

Knowing how most white people in this area dislike Negroes this seems to me the apparent reason for the proposed Scotland Neck City School System. The way I understand it the city school system will be only 18% black students and I am sure the percentage of blacks is greater than that now. I do not have any figures and I may be wrong but this is my understanding.

The authors of this proposed school system know damn well that the poor people (financially) will not be able to pay the tuition or provide transportation for their children. *I*, for one, with a child that will enter the first grade next year, *am opposed* to the proposed Scotland Neck City School System, as I am sure a great many other county residents are. By the way, I am white—not black!

Let's put a stop to this nonsense and consolidate the Scotland Neck and surrounding schools.

Thank you for listening to my complaint and for letting me register my opposition—which Mr. Gregory thought there was none of.

Yours truly,

/s/ Jim Casey, Jr.
Route 1 Box 300A
Scotland Neck, N. C. 27874

Scotland Neck City Schools
1969-70 Budget Request for Capital Outlay

Expenditures

Items of Expense	
1. Old Buildings & Grounds	$21,642.68
2. Auxiliary Agencies	1,000.00
3. New Buildings & Grounds	.00
TOTAL	$22,642.68

Income

Source of Funds	
1. Land Sales	$ 383.43
2. Intangible Taxes	860.75
3. Advalorem Taxes	21,398.50
TOTAL	$22,642.68

1969-70 Budget Request for Current Expense

Expenditures

Items of Expense	
1. General Control (No County Funds Used)	$ .00
2. Instructional Service	13,592.00
3. Operation of Plant (Janitors, Maids, Fuel, Utilities, Janitors' Supplies)	11,529.00
4. Maintenance of Plant (Repairs & Replacement)	15,000.00
5. Fixed Charges (Insurance, Workman's Compensation, Retirement, Social Security)	3,283.90
6. Transportation, Auxiliary Agencies	.00
TOTAL	$43,404.90

Income

1. ABC Funds	$ 5,008.00
2. Land Sales	444.46
3. Poll Taxes	677.02
4. Fines, Forfeitures, Penalties	5,321.00
5. Intangible Taxes	1,263.30
6. Advalorem Taxes	30,671.12
TOTAL	$43,404.90

THE REPORT OF THE GOVERNOR'S STUDY COMMISSION ON THE PUBLIC SCHOOL SYSTEM OF NORTH CAROLINA

"A Child Well Taught!"

Raleigh, North Carolina

1968

The Report of the Governor's Study Commission on the Public School System of North Carolina

"A Child Well Taught!"

Published 1968 by

The Governor's Study Commission on the Public School System of North Carolina
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OUR GOAL IS A CHILD WELL TAUGHT!

GOVERNOR DAN MOORE, AUGUST 25, 1967

[State Seal] December 3, 1968

The Honorable Dan K. Moore
Governor of North Carolina
Raleigh, North Carolina

Dear Governor Moore:

The Governor's Study Commission on the Public School System of North Carolina has the honor to submit its report.

In your charge to the Commission on August 25, 1967, you stated that the primary question to be answered by the study was: "How best can the people of North Carolina meet their obligation to provide full educational opportunity for their children?"

To help provide the answers to that question, experts in many areas of public education were consulted, research was conducted, and schools were visited. More importantly, tens of thousands of North Carolinians were directly involved in the search for answers to your question.

We are convinced that the people of North Carolina are ready to act upon the answers which they have helped provide.

We thank you for the leadership which you have given to insure brighter futures for the boys and girls of this State.

Sincerely,

/s/ James H. Hilton
JAMES H. HILTON
Chairman

COMMISSION MEMBERS

Dr. James H. Hilton
Chairman

/s/ R. D. McMillan, Jr.	Hon. R. D. McMillan, Jr. Vice Chairman
/s/ Martha W. Evans	Hon. Martha W. Evans Secretary
/s/ J. F. Allen	Hon. J. F. Allen
/s/ Julian R. Allsbrook	Hon. Julian R. Allsbrook
/s/ Allen C. Barbee	Hon. Allen C. Barbee
/s/ C. Graham Tart	Hon. C. Graham Tart
/s/ Phillip C. Brownell	Mr. Phillip C. Brownell
/s/ John W. C. Entwistle	Mr. John W. C. Entwistle
/s/ J. W. Goodloe	Mr. J. W. Goodloe
/s/ Conrad L. Hooper	Mr. Conrad L. Hooper
/s/ Amos Johnson, M.D.	Dr. Amos Johnson
/s/ C. B. Martin	Mr. C. B. Martin
/s/ W. B. McGuire	Mr. William B. McGuire
/s/ Mary C. Nesbitt	Mrs. Mary Nesbitt
/s/ A. Craig Phillips	Dr. A. Craig Phillips
/s/ Wallace I. West, Sr.	Mr. Wallace West, Sr.

Dr. Neill A. Rosser
Executive Director

Associate Directors
Mr. Jerome H. Melton
Dr. Richard S. Ray

GOVERNOR'S STUDY COMMISSION ON THE PUBLIC SCHOOL SYSTEM OF NORTH CAROLINA

Administration Building, Room B-13
116 West Jones Street
P. O. Box 22
Raleigh, North Carolina 27602
Telephone (919) 829-3972, 3973

Priorities for Action

What is accomplished for the future of North Carolina rests, finally, upon the people. What are the things that we, the people, must insist upon if our children are to be well taught? This entire report is concerned with that question, but there are a few areas that merit priority attention if progress in other areas is to follow.

Priority for Action: Organization of the Public Schools

The Commission recommends that there be established a North Carolina Education Development Council with subsidiary branches in each of the eight educational districts and each local school administrative unit.

The Commission recommends that the State Board of Education be firmly established as the policy formation agency for public education.

The Commission recommends that the position of the State Superintendent of Public Instruction be removed from the Constitution and the statutes as an elective position; that this position be established in the Constitution as an appointive one, subject to the salary, term, and conditions established by the State Board of Education.

The Commission recommends that the State Board of Education reorganize its divisions into a single agency responsible for the administration of all aspects of the educational programs.

The Commission recommends that the State Board of Education, in cooperation with the State Superintendent of Public Instruction and the State Department of Public Instruction, provide improved services to school administrative units through the establishment of a regional educational service center in each of the eight educational districts of the State.

The Commission recommends that the State adopt the county as the basic school administrative unit. Merger of city units with county units and, where necessary, merger across county lines should be accomplished in order to achieve sound educational programs. The State Board of Education should be empowered by the legisla-

ture to develop criteria for such mergers, taking into account geographic conditions and other relevant factors. Mergers should be accomplished as speedily as local conditions permit.

The Commission recommends that the State set aside a sum to be determined by the State Board of Education for the employment of aides and educational technologists.

The Commission recommends that the State make payments directly to teachers who serve as supervisors of student teachers. (Teachers so chosen would automatically become Instructional Specialists during such service.)

The Commission recommends that local school administrative units establish and maintain supplementary pay scales which make provisions for higher salaries for persons of special competence and leadership abilities who are designated as Instructional Specialists.

The Commission recommends that local school administrative units establish and maintain supplementary pay scales which recognize those persons who perform additional duties for the schools not directly related to academic instruction.

Priority for Action: The Curriculum

The Commission recommends that the General Assembly enact legislation providing for an extension of public education to five year olds on the same basis that educational programs are established for other age levels (grades 1-12). In view of the limited availability of teachers and facilities, the initial effort should be for 25 per cent of the eligible children with an accompanying two or three phase effort to serve all five year olds.

The Commission recommends that the State Board of Education and the Superintendent of Public Instruction initiate policies and procedures which establish for children ages five through eight a program of continuous learning that is based upon their individual needs, interests, and stages of development.

The Commission recommends that, as part of the development of comprehensive secondary schools, much greater emphasis be placed on occupational education,

including specific training in vocational subjects at the junior and senior high school levels. Special emphasis should be given industrial and service related skill training.

Priority for Action: Finance

The Commission recommends that the State Board of Education set policy calling for adoption in North Carolina of a Minimum Basic Program to finance the public school system. Such a program is designed to support all essential elements of public education desired by the people of the State. It is further recommended that the budget of the Minimum Basic Program consist of the consolidation of local, State, and federal funding which is sufficient to achieve an average expenditure for each pupil that assures equitable education opportunity for all pupils in the State.

Above and beyond the Minimum Basic Program, the Commission recommends that the State of North Carolina establish an Incentive Support Program which rewards counties that exceed the mandated local share of the Minimum Basic Program.

Priority for Action: Personnel

The Commision recommends that the concept of team teaching be encouraged at all levels in North Carolina schools.

The Commission recommends that to utilize the abilities of teachers and other instructional staff members more fully, to remunerate them accordingly, and to increase the efficiency of instructional personnel, the staff be differentiated such as follows:

Aides
Educational Technologists
Teacher Interns
Probationary Teachers
Provisional Teachers
Professional Teachers
Senior Professional Teachers
Instructional Specialists

The Commission recommends that the State establish a salary range for teachers based on the national average; that the salary be for ten months employment which should include holidays, time for in-service education, and similar activities; and that the State provide for twelve months employment for supervisory and administrative personnel and other instructional personnel.

The Commission recommends that the State adopt an index salary schedule for teachers, supervisory, and administrative personnel based on the salary of the beginning probationary teacher; and that the State maintain all future salary appropriations based on the index salary schedule.

THE STAFF OF THE COMMISSION STUDY

Dr. Neill A. Rosser, Director
Jerome H. Melton, Associate Director
Dr. Richard S. Ray, Associate Director
Jean F. Thompson, Administrative Assistant

Program Development and Research

Dr. Lucy T. Davis
Dr. Barbara M. Parramore

Research Associates

Ben T. Brooks
Dr. H. T. Conner
Dr. Oliven T. Cowan
Craig Horsman
Dr. Hugh Peck
Dr. James P. Sifford
Dr. J. Fred Young

Clerical Staff

Frances L. Taylor
Myrtle B. Hudson
Judy B. Cline

Report of the 1968 Governor's Study Commission on the Public School System of North Carolina

Neill A. Rosser, Director
Lucy T. Davis, Editor
Jean F. Thompson, Assistant Editor

Writing and Preparation of Materials

Anne J. Berry
Ben T. Brooks
H. M. Hamlin
Robert C. Hanes
R. Sterling Hennis
Robert Eugene Marlowe
Jerome H. Melton
Hugh Peck
Robert A. Pittillo, Jr.
Richard S. Ray

Barbara M. Parramore, Special Assistance
Robert E. Phay, Legal Advisor

Commission Members

Dr. James H. Hilton
Executive Director, Z. Smith Reynolds Foundation
Winston-Salem, North Carolina

The Honorable J. F. Allen
State Senator, 19th District
Biscoe, North Carolina

The Honorable Julian R. Allsbrook
State Senator, Fourth District
Roanoke Rapids, North Carolina

The Honorable Allen C. Barbee
State Representative, 14th District
Spring Hope, North Carolina

Mr. Philip C. Brownell
Group Vice-President, Fine Paper and Film Group
Olin Mathieson Chemical Corporation
Pisgah Forest, North Carolina

Mr. John W. C. Entwistle
President, N. C. State School Boards Association
Rockingham, North Carolina

The Honorable Martha W. Evans
State Senator, 27th District
Charlotte, North Carolina

Mr. J. W. Goodloe
President, N. C. Mutual Life Insurance Company
Durham, North Carolina

Mr. Conrad L. Hooper
Superintendent, Raleigh City Schools
Raleigh, North Carolina

Amos N. Johnson, M.D.
Garland, North Carolina

Mr. C. B. Martin
Superintendent, Tarboro City Schools
Tarboro, North Carolina

Mr. William B. McGuire
President, Duke Power Company
Charlotte, North Carolina

The Honorable R. D. McMillan, Jr.
State Representative, 24th District
Red Springs, North Carolina

Mrs. Mary C. Nesbitt
President, N. C. Classroom Teachers' Association
Raleigh, North Carolina

Dr. A. Craig Phillips
Administrative Vice-President
The Richardson Foundation, Inc.
Greensboro, North Carolina

The Honorable C. Graham Tart
State Representative, 12th District
Clinton, North Carolina

Mr. Wallace I. West, Sr.
Assistant Superintendent
New Hanover County Schools
Wilmington, North Carolina

Consultants to the Commission

Dr. Samuel M. Brownell
Professor of Urban Educational Administration
Yale University
New Haven, Connecticut

Dr. Lewis G. Dowdy
President, Agricultural and Technical University
Greensboro, North Carolina

Dr. H. M. Hamlin
Consultant, Center for Occupational Education
North Carolina State University
Raleigh, North Carolina

Dr. R. Sterling Hennis, Jr.
Associate Professor, School of Education
University of North Carolina
Chapel Hill, North Carolina

Dr. W. C. McClurkin
Director, Division of Surveys and Field Services
George Peabody College
Nashville, Tennessee

Jesse O. Sanderson
Director, Raleigh Cultural Center, Inc.
Raleigh, North Carolina

Dr. Herbert W. Wey
Associate Dean, School of Education
University of Miami
Coral Gables, Florida

Arnold Zogry Associates
Economic Consultants
Raleigh, North Carolina

Chapter 13

ORGANIZING NORTH CAROLINA'S SCHOOLS

The organizational structure of public education must create a setting in which the human and material resources involved in bringing education to the people can be used most effectively to provide a quality educational program. The key to a successful school program rests with the experiences and development of individual students and the creativity of teachers. However, public education functions through the appropriate organization and administration of the schools' resources. Just as learning and teaching have become more sophisticated and will continue to undergo changes, so must new and more efficient means be found of organizing available resources.

Most of the current patterns of educational organization and administrative structure in North Carolina were developed for circumstances geared to implement a much less complex school program. Current organizational patterns have served North Carolina in the past and have provided valuable information for further planning. The State now faces the task of utilizing current information and practices as a base for building a program for the future. It is toward this goal that the report of the Commission concerning organization of the public schools is directed.

A view of societal and economic changes in North Carolina has been described elsewhere in this report. Those who study and seek to implement the Commission recommendations on school organization are asked to consider the validity of the recommendations in light of the following projected conditions.

> Advancing technology, accompanied by the demand for highly skilled workers and capable theorists, will excite efforts to extend the public educational programs downward and upward, broaden school curricular offerings, and strengthen significantly those aspects of the present school program that continue to

be important. Increasing demand will be placed on governmental bodies in North Carolina to fund and establish educational programs for early childhood education. Senior high schools, technical institutes, and community colleges will be expected to prepare workers whose skills compare with those trained in other states. Students attending technical institutes, community colleges, and universities will be more nearly ready to work at a post-high school level. A better job of teaching basic communicative and mathematical skills and understanding of social relationships will be accomplished at all educational levels.

The schools will be staffed by larger numbers of professionals and aides who possess specialized skills, who are better prepared, and who are more capable of assuming enlarged responsibilities. The organizational structure of the schools will encourage, develop, and accommodate changes in the nature of personnel in the schools. Regulatory control on the part of State educational agencies and officials will be shifted to increased emphasis on leadership and guidance. Responsible groups at the local levels will execute increased responsibility for making important decisions.

The State cannot afford to support pockets of educational ineffectiveness. The results of a poor educational program, as evidenced in high dropout rates, and other factors, affect conditions throughout the State. It will be less expensive for the State to provide programs which help its citizens develop social and economic competence than it will be to support increasing numbers of uneducated, dependent people.

The concept of equal and uniform schools, when interpreted to mean equal distribution of money and services to all local school administrative units, will become a defunct principle. The State will need to provide more funds, people, services, and—most importantly—more leadership to areas of the State that are now educationally deprived. The ability of localities to help share the cost of education varies, as

does the interest in education. Efforts will be taken to improve the quality and to lessen the differences in educational opportunity for the child growing up in the poorest community as compared with the child growing up in the wealthiest.

In summary, the Commission has analyzed the organizational structure of public education in terms of economic and social considerations that are rapidly changing, educational programs which are as yet incompletely developed, and modified functions of the people involved in bringing education to the people.

The Problem

In his address to the Conference on Public School Education, Governor Moore made the following comments regarding organization for education at the State level:

> The entire structure of public school education in North Carolina must come under the careful scrutiny of the Study Commission. We cannot allow traditional patterns to obscure any need for constructive changes in the overall structure. It is essential that care be taken to insure that our public schools are prepared to meet the needs of the children in the communities they serve.
>
> On the State level we must be extremely careful that a rigid bureaucracy does not develop. Yet, we must have State level safeguards to insure that sound educational policies are developed and that every child regardless of where he lives in the State shall be assured of his rightful educational opportunity. To achieve this objective we need unified and strengthened State level service.[1]

The Governor's forthright call for a thorough study of school organization at the State level and for the development of a unified and strengthened structure of services through State agencies is not a new plea. The 1948 State Education Commission noted serious deficiencies in the organization of education and made some far-reaching

recommendations for unifying the structure. Seven of the recommendations which follow apply directly to the present Commission's study.

> The State Board of Education should be established as the policy-making body of the State for public school education . . . .
>
> The State Board of Education should be composed of ten lay members, not ex officio, to be appointed from the State at-large for 10-year overlapping terms by the Governor, and to be confirmed by the General Assembly in joint session.

* * * *

Local School Organization

Public schools began in America because of the initiative of citizens in local communities. The people joined forces in the common interest of providing education for their children. They found a room, hired a teacher, and sent their children to school.

C. O. Fitzwater points out that, because of the nature of the beginning of public schools, "no principle has been more generally or persistently held than the principle of local control." [22] He continues by saying,

> Adapting local district structure to changing conditions and needs has been a persistent problem in American education. . . . The urgency of the problem has been greatly accentuated in recent decades by the increasing importance of improving school program quality and by the massive population changes affecting all types of local government.[23]

The 1948 study conducted by the North Carolina State Education Commission presented an excellent summary of the many changes that have taken place in North Carolina school district organization since 1838.[24] The 1948 study made six recommendations which apply to the emphases in this chapter.

> There should be established a more uniform system of local boards of education on the policy-determining

and rule-making authorities in local administrative units.

The local board of education should be composed of five or seven lay members to be selected at large in terms of their fitness for the position, preferably in an independent election, and for overlapping terms of six years.

The local superintendent of schools should be appointed by the board for a term of four years, and should serve as the executive official with responsibility for administering the educational program in accordance with the policies and rules of the board.

Legislation should be enacted placing on the State Board of Education the responsibility, with the assistance of county committees on reorganization, to make and carry out a plan for determining on a statewide basis the number of local school administrative units and the number of school attendance areas that can satisfactorily provide the educational program of the future.

Since a local administrative unit should be sufficiently large enough to warrant the provision of all essential administrative and supervisory services, local units of school administration which are established in the future should be organized so as to assure in the unit an adsolute minimum of 3,500 to 4,000 school population and a desirable minimum of 9,000 to 10,000 school population.

Except as it is found to be administratively impractical, secondary schools should be established so as to assure an absolute minimum enrollment of 300 pupils and a desirable minimum of 500 to 600 pupils. . . . A four-year secondary school . . . should have an absolute minimum of 600 to 700 students and a desirable minimum of 900 to 1,000 students.[25]

Resolution Number 81 of the 1967 Legislature directed this Commission to study the following aspects of school organization at the local level: the need for merger for

school administrative units (including the merger of small county school units), the need for consolidation of small schools within administrative units, and the role of local boards of education.

Determinants of Adequacy of Local School Administrative Units. The adequacy of North Carolina's school administrative units should be measured in terms of identifiable criteria. Reorganization of local school units, when needed, should occur on the basis of such criteria.

When is a school unit organized effectively? The Education Commission of the State lists nine factors in determining organization of school districts.

Unified operation and control: The district is organized to operate both elementary and secondary schools under a single board of education and administrative staff.

Comprehensive educational program: The district is organized to provide, to the maximum extent practicable, the scope and quality of educational programs and services, regarded in the State as desirable for all children (the offerings of existing sound organized districts in the State may serve as a guide). Consideration of this factor should be limited only by unavoidable conditions imposed by population sparsity and community isolation.

Location and size of high schools: The district is organized to maintain one or more high schools which, to the maximum extent possible, are sufficiently large to provide well-rounded programs, and are located within reasonable transportation distance of the pupils. This factor will also be applicable to elementary school organization.

Instructional staff utilization: the district is organized to maintain schools, at reasonable per pupil cost, which can make effective use of the teaching staff, so that teachers are not assigned to teach unnecessarily small classes or are assigned courses outside their fields of preparation.

Staff specialization: The district is organized to include, where possible, a sufficiently large pupil population to provide at reasonable per pupil cost: (a) the specialized personnel, such as guidance counselors, speech therapists, and librarians, needed to supplement and support the work of the classroom teachers; (b) specially trained teachers to staff special classes for handicapped children, and (c) the specialized administrative, supervisory, and service personnel who function on a district-wide basis.

Financial equitability: The district is organized to eliminate unjustifiable differences in the market value of real property per pupil and to obtain maximum equalization of the local tax base for support of the educational program.

Adjustment for population sparsity: The district is organized to minimize effect of population sparsity on district adequacy. The effect of sparsity can be mostly overcome by making the area large enough to include two or more villages or a city. Although imposing much greater limitations on district size, extreme population sparsity can be compensated by making the district areas sufficiently large to include as many pupils as conditions permit.

Socio-economic and ethnic composition: The district is organized to include all socio-economic and ethnic groups that may be logically included in it. Although relevant everywhere, this factor is especially significant in metropolitan suburbs in preventing unreasonable imbalances in income groups and racial composition.

Citizen participation. The district is organized in accord with the principle of local operational control, so that its size will not hinder meaningful and effective citizen oversight and participation.[26]

In a study conducted for the Georgia State Board of Education, W. D. McClurkin[27] identified criteria of a good school system and of good schools within a school system.

A school system must be large enough to provide a full range of educational services and a qualified staff. This means 15,000 to 20,000 pupils in most systems, with a minimum of 10,000.

Operations must be efficient and economical. This means control of all educational services by one local board of education.

All schools and the administrative offices must be accessible to the students they serve.

The school system is governed by a nonpartisan lay board, elected at large by popular vote.

Elementary schools should have about three sections per grade.

Enrollment in elementary schools should be from 500-700 pupils.

Senior high schools should have 100 students in grade 12.

Three times as many units should be offered in high schools as are required for graduation.

The aforementioned studies and all others which have come to the attention of the Commission identify specific school system features toward which the people of a state or of a school system should work. While the criteria differ slightly from one report to another, there seem to be these areas of agreement.

A school system should offer a comprehensive curriculum at all levels so that all students, regardless of their capabilities, can receive appropriate educational experiences.

A school system should include enough tax resources that it can make the necessary local contribution to financial support for the schools.

A school system should be of such size that schools are convenient to those they serve without undue transportation problems.

The school unit should be of a size and organization that the principles of local control and citizen participation can be functional.

The school system should be of sufficient size in population that all of the above characteristics can be achieved in an economical manner.

The Commission feels that North Carolina school units should be judged against such criteria. Probably no school unit can completely measure up to such standards, even though the standards are realistic. When measured against any list of standards, school systems will meet each of the criteria to varying degrees. The important thing is that there be criteria which each school unit meet in order to justify its existence.

As has been discussed earlier in the report, North Carolina's rankings among the states is not an enviable one. While such rankings tell only a part of a story, this part of the story is significant. By most standard measures upon which school units are judged in the nation, North Carolina ranks near the bottom. Massive efforts need to be undertaken in order to provide a better opportunity for the State's young people. Part of the massive effort must be structural reorganization at the local level as well as at the State level. The recommendations in the following section provide some beginning steps that need to be taken.

The Recommendations

Determination of Criteria

There should be qualities of geographic or sociological uniqueness, school financial support characteristics, or curriculum features that make it necessary or desirable to have a particular area and population served by a school administrative unit. The size of school administrative units should not be confined by political boundaries or limited to local tradition if these two factors no longer serve as reasons for maintaining schools.

84. The Commission recommends that the State Board of Education adopt, with the full utilization of citizens' advisory councils and all other concerned groups, specific criteria to which all school units in North Carolina must adhere in order to qualify for recognition as a separate school administrative unit. (See Recommendation 85.)

Such criteria should be developed by the State Board of Education only after an ample period of study. Once school units are made aware of the criteria, a period of time should be allowed in which school units can meet them. After such time, the State Board should have the power to withhold State funds for the support of education from those units that have not taken appropriate steps to meet the criteria.

Size of School Systems

North Carolina has many school administrative units that do not have a justifiable basis as to the number of students served. Although North Carolina has made significant progress in administrative unit mergers, much effort is still needed to insure sound use of the State's money and quality educational programs. Seventy-three of the today's 157 units enroll fewer than 5,000 students in grades 1-12. Many authorities state that a minimum enrollment of 15,000 is needed to provide economically the kinds of educational opportunities described in this report. The merger of small units must receive high priority if every child is to receive a strong and effective instructional program and if maximum utilization is to be made of limited resources.

85. So that North Carolina can provide economical and effective schools, the Commission recommends that the State adopt the county as the basic school administrative unit. Merger of city units with county units and, where necessary, merger across county lines should be accomplished in order to achieve sound educational programs. The State Board of Education should be empowered by the legislature to develop criteria for such mergers, taking into account geographic conditions and other relevant factors. Merger should be accomplished as speedily as local conditions permit.

The reorganization of schools can be accelerated if certain conditions prevail. The most important conditions are those of establishing realistic objectives through State level leadership and adequate consultative services to provide help in reaching such objectives. Small city units where no extra funds are provided should be merged with larger county units. The county unit should be the basic district around which school units are structured. Individual city units serving large, varying urban groups may serve a purpose where citizens elect to make exemplary efforts in financial support. However, it is likely that rapid urbanization in the State will decrease the difference between urban and rural communities and increase the pressures for merger into larger school units.

The public can understand the many limitations of the small school unit, the advantages of a more comprehensive plan for organization, and the growing complexity of effective school programs. Movement towards merger will require knowledgeable leadership by citizens, effective professional administration, and large scale involvement of the lay public.

Current statutes appear to be adequate to accomplish effective reorganization of local school units if sufficient leadership is provided to effectively implement the legislation.

The State Department of Public Instruction, through state-wide leadership and regional service centers, should exert greater leadership in working with local boards and professional and lay groups in discussion of and planning for merger. The regional service centers should encourage the merger of services and provide such services across county and city unit lines. Patterns for such services are already developing through transportation, multi-media services, in-service education, etc. Psychological and testing services, health services, educational TV, and other specialty services are examples of new and expanding opportunities in this direction.

The State Board of Education should be adequately informed as to progress and current status of merger in small units. The Board should carry on a dialogue with local boards and advisory groups. A climate for school

improvements would thereby be fostered and the positive aspects of change could be better understood.

Local Boards of Education

The local school board is the key to strong local administrative units. Yet through the years, national and state legislative and funding procedures have centralized some functions which were formally local ones. Currently, there is grave danger of losing the local board of education as a strong, effective organ of local government. This trend must be reversed if North Carolina schools are to enjoy the support and interest of the citizenry. All concerned should work toward enrolling the local school board to serve as a dynamic body in the operation of a strong program of public education. The following are examples of how this might be accomplished:

The decision-making process should be as close to the people as possible. No decisions relative to education should be made at the State level which can better be made at the local level.

State leadership should encourage and plan with local boards to the end that each board is educated as to its vital role and kept informed as to its responsibilities.

Decisions and administration at the State level should be as general as possible, allowing the local board as many specific decisions as possible and the responsibility for implementation of policies and programs.

Training programs and leadership workshops should include the cooperative attention of school board associations, the State Board of Education, universities and colleges, and other government and civic agencies.

There should be a uniform method of selecting local school board members in North Carolina. Such an effort, if tied to the above suggestions, would increase the leadership capacity of local boards.

86. The Commission recommends that the General Assembly enact legislation that requires all members of local boards of education be selected by the people in the school administrative unit they serve. The election should be on a non-partisan basis for terms of four to six years, with approximately one third of each board's membership elected every two years. Local boards should consist of five to nine members.

Local boards of education should be the only policy-making, legally constituted body responsible for all public education within their respective administrative units. The State Board of Education and the State agency should function through the various local boards and should involve local boards in the decision-making process.

* * * *

Chapter 18

SHARING FINANCIAL RESPONSIBILITY

The lack of adequate investment is the paramount financial problem of education in the United States. In 1966 approximately 4 per cent of personal income was spent on current operating expenses for public schools. If the demands for the improvement of existing programs and the additions of new ones are met, the nation may have to increase its investment in education to a minimum of 10 per cent of personal income. North Carolina may be expected to reflect this general trend. The extent of investment will be a major factor in shaping the educational goals of the future.

The problems of financing the public schools of North Carolina may be classified in three categories: educational conditions requiring additional funds; disparities between the tax system and the economic capability of the State; and diversity of support arising from inadequate structure of some school administrative units in the State.

In the new era of public education in North Carolina, pupils are expected to enter school earlier and learn more during their years in school. In order to provide pupils with the education they need, most school programs must be improved. Potential dropouts need more help in securing appropriate experiences in secondary schools. Expanded special services to pupils and auxiliary services will require part of the education dollar. Provisions for capital improvements should be planned on a systematic rather than an intermittent basis. These and other conditions necessitate a substantial increase in the State's investment in the education of its future citizens.

An examination of the tax system in North Carolina reveals many disparities between the yield of tax dollars and the economic capability of the State. Property valuation is low in comparison to that of other states. Valuations differ from region to region in spite of the legally required reassessment every eight years. Income is not necessarily spent where it is earned. This fact partially invalidates retail sales as a single index for determining local support capability.

The pattern of local financial support for schools is one of diversity. The structure of school administrative units and local sources of revenue vary from county to county. Some counties contribute primarily to capital outlay expenses. Other counties, in addition to the costs of capital improvements and debt service, make large contributions in support of current operating expenses. The operation of more than one school administrative unit in a county further complicates the pattern of local financial support. Currently, the number of school administrative units within a county ranges from one to six with most counties having two such units.

School Finance in North Carolina

The Constitution of the State of North Carolina provides for public education in the following ways.

> The people have the right to the privilege of education, and it is the duty of the State to guard and maintain the right.

> Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.
>
> The General Assembly shall provide by taxation and otherwise, for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years.[1]

Prior to 1900, public education in North Carolina was financed primarily by local support and contributions, with limited State funds on a per capita basis. In 1901 the General Assembly made an appropriation of $100,000 to the public schools and authorized the continuation of an equivalent fund. This action was the first attempt to equalize educational opportunities for all children in the State.

In 1911, by constitutional action, the school term was lengthened to six months. Appropriations continued to increase until a six-months term was provided chiefly by a State property tax in 1919. At that time, the basis of support for high schools was made the same as the basis for elementary schools.

In 1931 the General Assembly passed the School Machinery Act, providing for a fair and equitable distribution of the school funds to all counties of the State and the extension of the school term to eight months. This Act, as amended in 1933, placed the major responsibility for school support upon the State and created the State School Commission to administer the system. This revolutionary legislation abolished all existing *ad valorem* taxes and enacted a general State sales tax to finance the State program of education.

According to a 1948 study, the State's plan for financing education prior to 1933 failed for these reasons: a world-wide depression which caused a rapid decline in State and local funds; the lack of a satisfactory plan for determining the taxpaying ability of the school administrative units; the failure of the State to include provi-

sions for school buildings and other essential elements of school costs; poor rural school organization; and the failure of the State to provide sufficient funds from State administered taxes to finance its fair share of the costs of an adequate basic program of education for all children.[2]

The School Machinery Act left with the General Assembly the responsibility for determining educational programs through its authority to allocate specific amounts for specific line-items in the budget. Since limited local financial participation was required, the State-financed program became the standard program. Such a system of State support was, and is now, an unusual departure from established finance programs in other states. The basic structure of school finance in North Carolina has not changed since 1933. As new programs were added, new specific line-items appeared in the State budget.

Local, State, Federal Ratios

The pattern of financial support for current operating expenses of public schools has made the cycle from a

predominantly local support plan to a predominantly state-supported plan of finance. As shown in Chart D, the State percentage of current operating expense increased from 16 per cent in 1927-28 to a high of 75 per cent in 1965-66, then decreased to 68 per cent in 1966-67. Trends towards decreasing State and local support, and increasing federal support, are evident in the financial picture of North Carolina public schools.

CHART D

EMERGING FINANCIAL SUPPORT PATTERN FOR CURRENT OPERATING EXPENSE IN NORTH CAROLINA (FOUR SELECTED SCHOOL YEARS)[3]

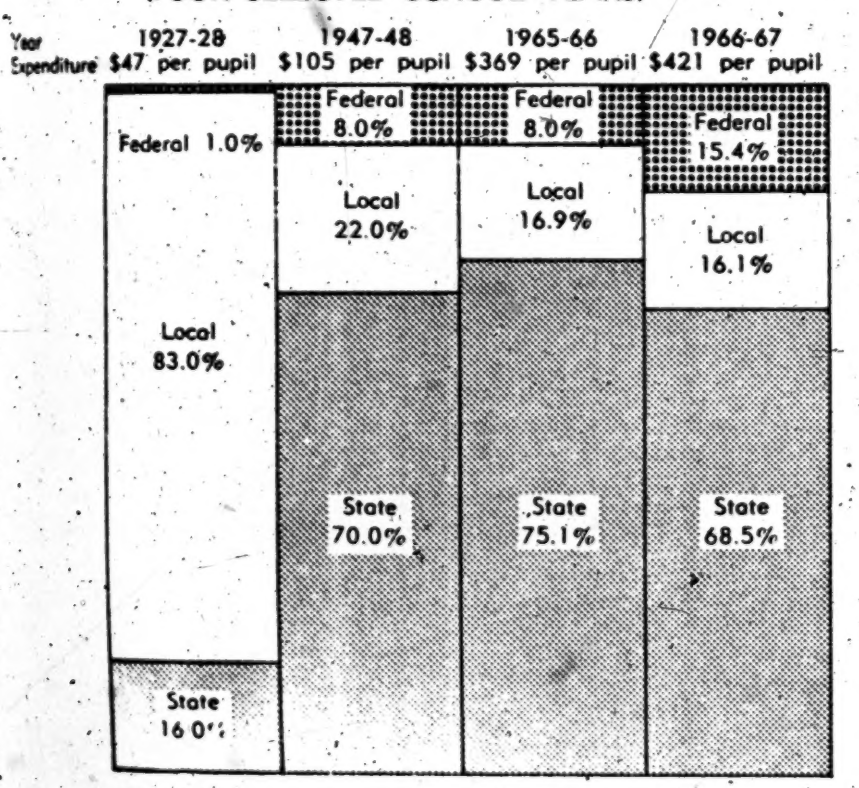


CHART E

COMPARATIVE FINANCIAL SUPPORT PATTERN, CURRENT OPERATING EXPENSE[4]

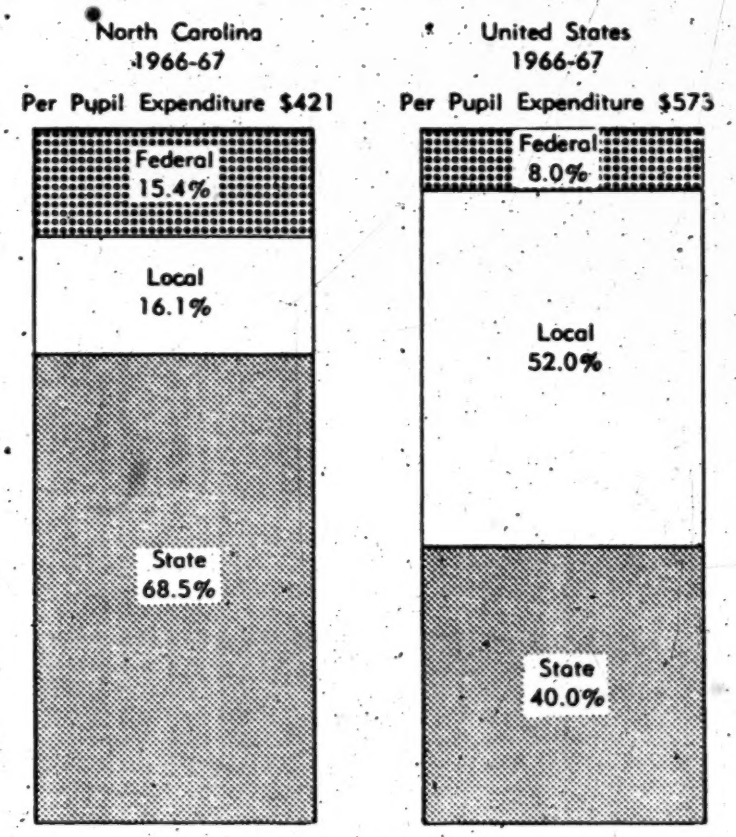
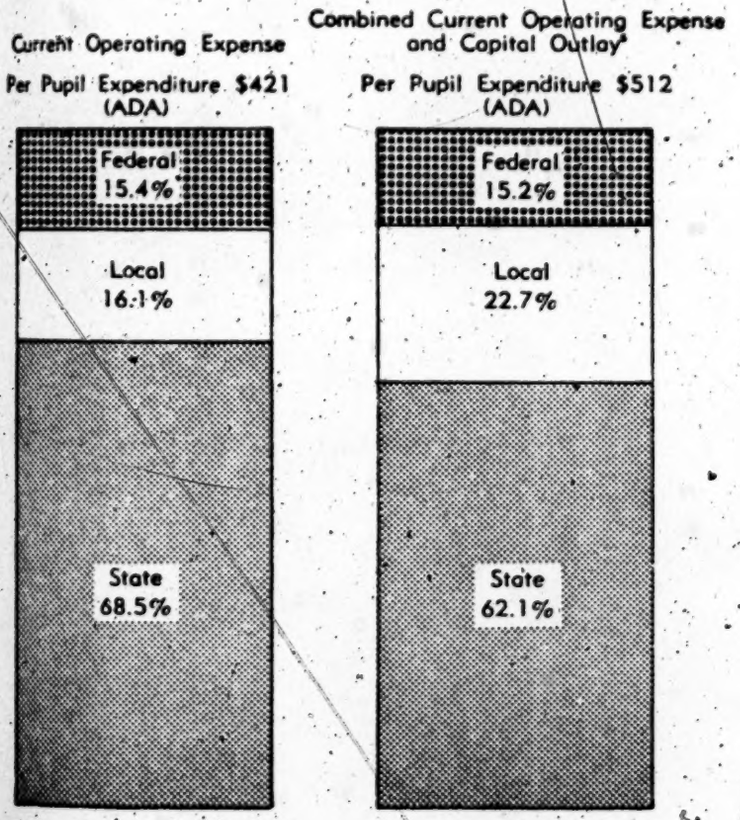


Chart E compares the support pattern prevalent in other states with the pattern in North Carolina. Nationally, funds for public schools are proportioned by source as follows; 52 per cent local, 8 per cent federal, and 40 per cent state sources. Currently, North Carolina utilizes more federal and State funding and less local funding than the national average for the support of public schools.

Chart F indicates the comparison of financial support for current expense with support for current expense and capital outlay combined. Information about debt service is not included because a full accounting is not now available. The local contribution to capital outlay alters somewhat the financial support pattern. The federal percentage is essentially the same.

CHART F

NORTH CAROLINA CURRENT OPERATING EXPENSE COMPARED WITH COMBINED CURRENT OPERATING EXPENSE AND CAPITAL OUTLAY, 1966-67



For more than thirty years, the State has assumed the major responsibility for current operating expense of the public school system. State revenue for this support is derived primarily from sales and income taxes, a combination which taps wealth irrespective of location. The *ad valorem* tax is reserved as the principal source of revenue for county operation, including local schools, from which capital outlay and additional funds for current expense are derived. North Carolina ranks 44th among the states of the nation in current expenditure for each pupil based on average daily attendance.[6] Both State and local governments need to provide increased revenue for the support of schools.

State funds are allotted to administrative units for most items of annual operating expense. However, expense for maintenance of plant, audits, attorney fees, elections, insurance, and certain other operating costs do not come from State allocations. These costs must be borne by the local administrative unit. Local units may supplement State funds in any areas of expenditure by a local current expense fund upon approval of the county commissioners or by a special supplementary tax approved by the citizens. In the 1966-67 school year, 16.1 per cent of current expenditures for public schools came from local funds to extend State funds for current expense. The extent of this local effort among the administrative units ranged from a low of 5.1 per cent to a high of 34.7 per cent. During that school year, eight of the 169 school administrative units provided more than 25 per cent of the financial support for current expenditures from local funds.[7]

In North Carolina, the contributions of the State for current expense are distributed through ten funds which are described as follows:

Nine Months School Fund
Vocational Education Fund
Retirement and Social Security Fund

Trainable Children Fund
Driver Education Fund
Comprehensive School Improvement Fund
Professional Improvement of Teachers Fund
Elementary Textbook Fund
High School and Supplementary Textbook Fund
Textbook Clerical Fund

Each of the ten funds listed above has its own distribution procedures, some of which require intricate and duplicate accounting procedures. In the majority of cases, local expenditures are made by State voucher drawn directly upon the State treasury. In some cases local funds are advanced for expenses and later reimbursed by the State. Driver Education funds are requisitioned and advanced monthly to the administrative unit. Local units which supplement State funds must maintain a dual set of accounts—one for State expenditures and another for local expenditures. At times, invoices have to be split in order to pay a portion of the cost on State voucher and the remainder on local voucher.

Over 90 per cent of State funds are distributed through the Nine Months School Fund. The 37 categorical allotments under the Nine Months School Fund are listed as follows:

(1)	611-1	Salary: Superintendent
(2)	611-2	Salary: Assistant Superintendent
(3)	612	Travel: Superintendent
(4)	613-1	Salary: Clerical Assistants
(5)	613-2	Salary: Property and Cost Clerks
(6)	614	Office Expenses
(7)	615	County Boards of Education: Per Diem, Travel
(8)	617	Salary: Attendance Counselors
(9)	621	Salary: Elementary Teachers
(10)	622	Salary: High School Teachers
(11)	623-1	Salary: Elementary Principals
(12)	623-2	Salary: High School Principals
(13)	624	Instructional Supplies—General
(14)	624a	Instructional Supplies—Film

(15)	625-1	Salary: Supervisors
(16)	627	Clerical Assistance in Schools
(17)	631	Wages: Janitors
(18)	632	Fuel
(19)	633	Water, Lights, Power
(20)	634	Janitors' Supplies
(21)	635	Telephones
(22)	653	Compensation School Employees
(23)	654	Reimbursement for Injured School Children
(24)	656	Tort Claims
(25)	661-1	Wages: Drivers
(26)	661-2a	Gas, Oil, Grease
(27)	661-2b	Gas Storage Equipment.
(28)	661-3	Salary: Mechanics
(29)	661-4a	Repair Parts, Batteries
(30)	661-4b	Tires and Tubes
(31)	661-4c	License and Title Fees
(32)	661-4d	Garage Equipment
(33)	661-5	Contract Transportation
(34)	661-6	Replacement of Major Items
(35)	661-7	Principals' Bus Travel
(36)	662	Libraries—Supplies, Repairs
(37)	664	Child Health Program

Formulas employed for the allocation of State funds to school administrative units in the 37 categories involve complicated factors of average daily membership (ADM), average daily attendance (ADA), plus contagion, the number of teachers allotted by the State to the administrative unit, and certain scheduled funds. Allotments are made by many different formulas; 124 pages of memoranda and directives were required to explain allotments, rules, and regulations for the 1967-68 school year.

State funds are controlled through an intricate accounting system that not only requires the reporting of expenditures in detail to the Controller's Office of the State Board of Education, but also involves forwarding to the Controller's Office duplicate invoices, check copies, and a daily transaction record in certain cases. At times, the

meticulous requirements for use and accounting for State funds on certain specified forms discourage school administrative units from using modern accounting systems and electronic data processing.

Variation Among School Administrative Units

Despite mergers and consolidations, many small administrative units and schools remain, and their shortcomings are evident. Administrative costs are higher. The smaller the school unit, the greater the number of teachers and other employees that are necessary to provide a quality educational program for each 1,000 pupils. Due to isolation or population sparsity, some small administrative units may be necessary. Other units could be consolidated without creating undue inconvenience or hazards for pupils.

Ten years ago, James B. Conant recommended that a high school have a minimum of 100 pupils in the graduating class to function effectively as a comprehensive school. Greater efficiency and better utilization of teaching staff, as well as a low average cost for each pupil, can be achieved if a high school has more than twice the minimum enrollment recommended by Conant. Results of research show a definite relationship between school size and quality of program offerings. Counseling, other services, and enriched programs which provide pupils with high quality education are not usually available in small schools except at excessive costs.

In 1967-68 North Carolina had 735 schools offering high school courses. Despite the importance of both a comprehensive and specialized program in the high school, North Carolina has 202 high schools with enrollments ranging from 31 to 299 pupils. Over one-third of the number of high schools in the State enroll less than 300 students, a minimum size to provide a good program at a reasonable cost. One can conclude that an adequate secondary program cannot be offered in one-third of the high schools at an average pupil cost.

Table 9 reports enrollments of the four largest and four smallest high schools in North Carolina. In grades 10 through 12, Ocracoke had 31 students while Broughton had 2,638.

Table 9

Enrollment Eight High Schools
Grades 10, 11, 12, 1967-68*

Four Largest High Schools		Four Smallest High Schools	
School	Enrollment	School	Enrollment
Broughton (Raleigh Unit Wake County)	2,638	Ocracoke (Hyde County)	31
Garinger (Charlotte-Mecklenburg)	2,229	Taylorsville (Alexander County)	47
Fayetteville (Fayetteville Unit Cumberland County)	2,093	Mountain View (Graham County)	50
New Hanover (New Hanover County)	2,016	Hoffman (Richmond County)	50

* Source: Unpublished Data, State Department of Public Instruction.

The number of school administrative units is decreasing. In 1966-67, for which the latest cost data are available, there were 169 administrative units. In 1967-68 there were 160, and the 1968-69 school year began with 157 units. Yet, too many of the administrative units have too small a pupil population to provide an effective educational program at reasonable cost. Almost half of the number of pupils in the State are in the 25 largest administrative units. For example, during 1967-68 Mecklenburg's enrollment was twice as large as the total enrollment in the 25 smallest administrative units. Twenty-three units had enrollments of less than 2,000 pupils. Merger of very small units would bring greater financial efficiency in operational costs and improved educational opportunity for pupils.[8]

In addition to limited school programs, costs of administrative services are higher in the smaller administrative units compared with larger administrative units. General control includes the costs related to the salaries of superintendents and their staffs and operation of the central office for the administrative unit. Table 10 shows the relationship between the cost per pupil for general control in 1966-67 for three large units and three small ones. Gaston spent the low amount, $4.93 for each pupil for general control; and Tryon the high, $28.03. Chowan ranked high in per pupil expenditure for general control ($24.11) and ranked fourth in per pupil expenditure ($338.92) for all State funds.

Table 10

Comparison of Selected School Administrative Units Per Pupil Expenditure for General Control with Total State Funds for Current Expense, 1966-67 *

School Administrative Unit (N: 169)	1966-67 Enrollment	Per Pupil Expenditures for General Control	Rank*	Expenditures State Funds Per Pupil	Rank**
Gaston	24,133	$ 4.93	1	$278.87	155
Caldwell	11,589	5.21	2	282.77	142
Greensboro	30,873	6.51	5	282.16	144
Chowan	807	24.11	162	338.92	4
Morven	970	26.01	163	302.62	60
Tryon	832	28.03	166	327.39	10

* Rank: low expenditure to high

**Rank: high expenditure to low

Differences exist also among school administrative units in expenditures from local funds for each pupil. Ability to provide financial support from local sources varies, especially in relation to county and city administrative units. Effort exerted by local governments in support of schools also varies. A comparison of financial support effort and financial support ability for each administrative unit indicates apparent lack of effort on the part of a number of county and city units.

Table 11 indicates the expenditure for each pupil and selected administrative units' rank in utilizing local funds for current operating costs during 1966-67. Hendersonville unit ranked first with the expenditure of local funds of $171.20 for each pupil. The lowest amount of local funds expended by an administrative unit for each pupil was $19.63. The average expenditure from local funds for each pupil was $52.29.

Table 11

Per Pupil Expenditure, Local Funds for Current Expense, Selected Administrative Units 1966-67 [10]

School Administrative Unit	Per Pupil Expenditure	Rank
Hendersonville	$171.20	1
Mecklenburg	166.47	2
Currituck	102.89	13
Alexander	22.05	167
Yancey	20.19	168
Onslow	19.63	169
Per Pupil Expenditure	Low $ 19.63	
	High 171.20	
	Median 52.29	

The Commission has made recommendations earlier in this report in regard to the merger of small administrative units and the consolidation of small schools. Such reorganization is needed not only to reduce the excessive operation costs, but also to provide more adequate instructional programs and services. The administrative units which received the largest sums in State funds for each pupil were those with small enrollments. On a per pupil basis, each of 102 administrative units received more State funds than did any of the ten largest administrative units in 1966-67.

Table 12 shows the average pupil expenditure from State funds for the administrative units ranking the highest and lowest in amounts for current expense. The three administrative units—Cherokee, Alleghany, and

Polk—receiving the highest amounts of State funds had less than 4,000 pupils enrolled in each unit.

Table 12

Per Pupil Expenditure, State Funds for Current Expense, Selected Administrative Units 1966-67 [11]

School Administrative Unit	High Per Pupil Expenditure	School Administrative Unit	Low Per Pupil Expenditure
Cherokee	$365.85	Onslow	$265.96
Alleghany	340.32	Glen Alpine	262.21
Polk	339.44	Cumberland	259.41

For All Administrative Units		
	Low	$259.41
	High	365.85
	Median	295.67

* * * *

Chapter 19.

KEY RECOMMENDATIONS REVIEWED: SOME SUGGESTED PRIORITIES

The citizens of North Carolina who have read this report may feel overwhelmed by the number of recommendations made. However, the Commission was charged with the responsibility of developing a detailed blueprint for the future of the public schools. Some things need to be done now; other things must wait for future developments.

In the final analysis, how well something is taught—if it is taught at all—depends upon four chief factors: the child who comes to school with his own private hopes,

ambitions, capabilities and limitations; the persons who work with him, especially the teachers; the materials and tools of instruction; and the conditions under which teaching and learning take place. The Commission has studied these factors in depth and the entire report relates in one way or another to them.

What, then, are the priorities? As viewed by the Commission, the priorities fall into four categories: organization, finances, personnel, and the curriculum. In identifying the priorities, the Commission does not intend to lessen the importance of either the key recommendations mentioned later in this chapter or the recommendations contained throughout the report.

There must be improvement in the areas of organization, finances, and personnel if improvement in other areas is to follow. In the curriculum area, early childhood education is of paramount importance in building a foundation for the future education of the child; and occupational programs are essential to give purpose and meaning to many students who do not see school programs as related to their goals.

Organization of the Public Schools

Progress has been made in the reorganization of North Carolina's public school system over the past several years. Improvements have been made in the State Department of Public Instruction, and consolidation of schools has occurred in several counties. However, much more improvement must be made in the organization of public schools before many of the recommendations of this report can be implemented. The need for better organization has been fully documented throughout the report. There are few clear lines of authority and responsibility between the State Board of Education and the State Department of Public Instruction. The fact that the present organizational arrangement has worked is a tribute to the men who have occupied the positions of leadership.

The Commission found widespread sentiment that the services of the State Department of Public Instruction

are too highly concentrated in the central office located in Raleigh. There was agreement that the should be regional service centers to bring the leadership and expertise of the State Department closer to the local schools.

At the local level, the Commission found that North Carolina has too many small, ineffective schools. Consolidation has occurred in some schools of the State, but much more such action needs to occur. The general control (administrative) costs, for instance, ranged in 1966-67 from $4.93 per pupil in a large school administrative unit to $40.93 in a small unit. This is only a minor part of the story. Educational programs are inadequate, and children are paying the consequences in limited opportunities in too many schools across the State.

The Commission realizes fully that reorganization can occur only to the extent that the people of North Carolina wish it to occur. No leader can step very far ahead of the people without losing his effectiveness. The General Assembly reflects as closely as possible the will of the people. And this is as it should be.

What are the things that the people must insist upon if children are to be well taught? This entire report is concerned with that question, but a few major items—on which progress in other areas depends—are clearly indicated in the organization of public schools.

Citizen Involvement. Specifically, to provide the organizational means by which citizens can become more actively involved in promoting good schools, the Commission recommends:

> That there be established a North Carolina Education Development Council with subsidiary branches in each of the eight educational district and each school administrative unit.

The functions of these advisory groups should be to: initiate and conduct planning and study of public education in North Carolina at the State, regional, and local school levels; report regularly on the results of such study to local boards of education, the staffs of regional education service centers, the State Board of Education, and the General Assembly of North Carolina; and make

recommendations for the improvement of public education in the State.

The State Department of Public Instruction. North Carolina now has a State Superintendent of Public Instruction elected by the people and a State Board of Education appointed by the Governor. Clear lines of authority and responsibility do not exist in several crucial areas. Therefore, the Commission recommends:

> That the State Board of Education be firmly established as the policy formation agency for public education.
>
> That the Superintendent of Public Instruction be appointed by the State Board of Education.
>
> That the State Board of Education reorganize its divisions into a single agency responsible for the administration of all aspects of the educational program.
>
> That, to provide improved services to school administrative units, Regional Educational Service Centers be established in each of the eight educational districts of the State.

School Administrative Units. Few people will argue against the values of consolidation from an educational standpoint. On the other hand, each local situation is different. To be successful, consolidation must have the support of local citizens. Therefore, the Commission recommends:

> That the State adopt the county as the basic school administrative unit. Merger of city units with county units and, where necessary, merger across county lines should be accomplished in order to achieve sound educational programs. The State Board of Education should be empowered by the legislature to develop criteria for such mergers, taking into account geographic conditions and other relevant factors. Merger should be accomplished as speedily as local conditions permit.

— • • • •

ation (45 C.F.R. 80) issued to carry out
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ashington, D.C. 20044
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Office for Civil Rights
Washington, D.C.

SCHOOL SYSTEM REPORT
FALL 1968 ELEMENTARY AND SECONDARY SCHOOL SURVEY
Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

OCR 101 (5/68)
Budget Bureau No:51-R550
Expiration Date: 6/30/69

Name of School System Halifax County School Administrative Unit

Street Address Dobbs Street

City, County, State, Zip Code Halifax, Halifax County, N. C. 27839

Name of Chief Administrative Officer of School System H. Henry Overman

Most recent type of Assurance of Compliance accepted by HEW:

- ☐ HEW Form 441
- ☐ HEW From 441-B
- ☐ Assurance of Compliance with Court Order
- ☐ Other. Please explain: Compliance with Dept. of Justice requests for additional steps to disestablish the dual school system in August 1968.

Number of Schools in this School System. 13

Students and Professional Staff.

ort number of persons in each pory. Do not use percentages.	Column 1 School System Total (BOTH minority and non-minority groups)	MINORITY GROUP (Persons included in column 1 who are members of the minority groups listed below)				
		Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Columns 2, 3, 4, and 5)
Enrolled Students.	10,655	102	8,196			8,298
Full-Time Professional Instructional Staff						
(1) Assigned to One School Only	447	2	322			324
(2) Assigned to More Than One School	8		4			4
(3) TOTAL of (1) and (2)	455 ~~440~~		326 ~~326~~			328 ~~328~~

To assure the submission of correct Title VI compliance data, check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form. Be sure there is an Individual School Report for each of the schools (or separate campuses) reported in Item VI.

Certification: I certify that the information given with this report is true and accurate to the best of my knowledge and belief. A willfully false statement is punishable by law. (U.S. Code, Title 18, Section 1001).

H. Henry Overman Supt. 583-2151 10-1-68

Signature and Title of Person Furnishing Information | Telephone Number | Date Signed

In such form containing such information a[illegible] sible [illegible]ertment official or his designee may determine [illegible] necessary [illegible]able him to ascertain whether the recipient has complied or [illegible]mplying with this Regulation.

FALL 1968 ELEMENTARY AND [illegible] SCHOOL SURVEY
Required Under Title VI of th[illegible] its Act of 1964
Due October 15, 1968

Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 00 042 042
Name of School: William [illegible] Davie High School
Street Address: Route 1, Box 191
City, County, State, Zip Code: Roanoke Rapids, Halifax County, N. C. 27870

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☐

Students and professional Staff

Report number of persons in each category. Do not use percentages.

MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)

		Column 1 School Total (BOTH minority and non-minority groups)	Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	87		8			8
	2	100	1	10			11
	3	75		5			5
	4	86	1	7			8
	5	88		10			10
	6	85		6			6
	7	170		69			69
	8	143		87			87
	9	98		19			19
	10	62		14			14
	11	71		13			13
	12	51		14			14
Ungraded, Special Educa.							
Other Ungraded							
TOTAL Enrollment		1,116	2	262			264
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1					
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom	1	3					
Teachers (by grade)	2	4					
	3	3					
	4	3		1			1
	5	3					
	6	3					
	7	6		3			3
	8	5		3			3
(b) Secondary Classroom Teachers (as a group)		14		2			2
(c) Ungraded, Special Educa.							
(d) Other Ungraded		2					
TOTAL Classroom Teachers		46		9			9
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		47		9			9
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		14		4			4
(2) Transfers (staff members							

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	87		8			8
	2	100	1	10			11
	3	75		5			5
	4	86	1	7			8
	5	88		10			10
	6	85		6			6
	7	170		69			69
	8	143		87			87
	9	98		19			19
	10	62		14			14
	11	71		13			13
	12	51		14			14
	Ungraded, Special Educa.						
	Other Ungraded						
	TOTAL Enrollment	1,116	2	262			264
Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1)	The Principal	1					
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary	K					
	Classroom	1	3				
	Teachers (by grade)	2	4				
		3	3				
		4	3	1			1
		5	3				
		6	3				
		7	6	3			3
		8	5	3			3
	(b) Secondary Classroom Teachers (as a group)		14	2			2
	(c) Ungraded, Special Educa.						
	(d) Other Ungraded		2				
	TOTAL Classroom Teachers		46	9			9
(4)	Other Instructional Staff						
(5)	TOTAL of (1),(2),(3),(4)		47	9			9
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)		14	4			4
(2)	Transfers (staff members transferred from another school of this system)		4	4			4
(3)	TOTAL of (1) and (2)		18	8			8

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1940-41

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1961-62 2. Elementary classrooms, 1958-59

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may cause a refusal of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

ment Official or his designee may determine to be necessary able him to ascertain whether the recipient has complied or plying with this Regulation.

Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 00 042 042
Name of School: White Oak Elementary School
Street Address: Route 2, Box 100
City, County, State, Zip Code: Enfield, Halifax County, N. C. 27823

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	48		48			48
	2	41		41			41
	3	40	2	38			40
	4	31		31			31
	5	35		35			35
	6	39		39			39
	7	24		24			24
	8	30		30			30
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	16		16			16
	Other Ungraded						
	TOTAL Enrollment	304	2	302			304
Professional Instructional Staff Assigned to this School on a full-time basis.							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers Pre-K						
	(a) Elementary K						
	Classroom 1	2		2			2
	Teachers (by grade) 2	1.5		1.5			1.5
	3	1.5		1.5			1.5
	4	1.5		1.5			1.5
	5	1.5		1.5			1.5
	6	1		1			1
	7	1		1			1
	8	1		1			1
	(b) Secondary Classroom Teachers (as a group)						
	(c) Ungraded, Special Educa.	1		1			1
	(d) Other Ungraded						
	TOTAL Classroom Teachers	12		12			12
(4)	Other Instructional Staff						
(5)	TOTAL of (1),(2),(3),(4)	13		13			13
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)	1		1			1
(2)	Transfers (staff members						

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	48		48			48
	2	41		41			41
	3	40	2	38			40
	4	31		31			31
	5	35		35			35
	6	39		39			39
	7	24		24			24
	8	30		30			30
	9						
	10						
	11						
	12						
Ungraded, Special Educa.		16		16			16
Other Ungraded							
TOTAL Enrollment		304	2	302			304
Professional Instructional Staff Assigned to this School on a full-time basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom	1	2		2			2
Teachers (by grade)	2	1.5		1.5			1.5
	3	1.5		1.5			1.5
	4	1.5		1.5			1.5
	5	1.5		1.5			1.5
	6	1		1			1
	7	1		1			1
	8	1		1			1
(b) Secondary Classroom Teachers (as a group)							
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded							
TOTAL Classroom Teachers		12		12			12
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		13		13			13
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		1		1			1
(2) Transfers (staff members transferred from another school of this system)							
(3) TOTAL of (1) and (2)		1		1			1

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VII furnished as of (Date): 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1922-23

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1953-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classroom, 1966-67 2. Elementary classrooms, 1959-60

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law, U.S. Code Title 18, Section 1001.)

729

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO 042 042
Name of School: Tillery Chapel Elementary School
Street Address: P. O. Box 128
City, County, State, Zip Code: Tillery, Halifax County, N. C. 27887

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☐

Students and professional Staff

Report number of persons in each category. Do not use percentages.

MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)

		Column 1 School Total (BOTH minority and non-minority groups)	Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	28		28			28
	2	43		43			43
	3	39		39			39
	4	34		34			34
	5	29		29			29
	6	28		28			28
	7	39		39			39
	8	32		32			32
	9						
	10						
	11						
	12						
Ungraded, Special Educa.							
Other Ungraded							
TOTAL Enrollment		272		272			272
Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1	1		1			1
	2	2		2			2
	3	1		1			1
	4	1		1			1
	5	1		1			1
	6	1		1			1
	7	1		1			1
	8	1		1			1
(b) Secondary Classroom Teachers (as a group)							
(c) Ungraded, Special Educa.							
(d) Other Ungraded							
TOTAL Classroom Teachers		9		9			9
(4) Other Instructional Staff		1		1			1
(5) TOTAL of (1),(2),(3),(4)		11		11			11
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		1		1			1
(2) Transfers (staff members transferred from another school of this system)							
(3) TOTAL of (1) and (2)		1		1			1

Students and professional Staff

Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
		(Persons included in Column 1 who are members of the minority groups listed below)				
Enrolled Students Pre-K						
K						
1	28		28			28
2	43		43			43
3	39		39			39
4	34		34			34
5	29		29			29
6	28		28			28
7	39		39			39
8	32		32			32
9						
10						
11						
12						
Ungraded, Special Educa.						
Other Ungraded						
TOTAL Enrollment	272		272			272
Professional Instructional Staff Assigned to this School on a Full-Time Basis.						
(1) The Principal	1		1			1
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary K						
Classroom 1	1		1			1
Teachers (by grade) 2	2		2			2
3	1		1			1
4	1		1			1
5	1		1			1
6	1		1			1
7	1		1			1
8	1		1			1
(b) Secondary Classroom Teachers (as a group)						
(c) Ungraded, Special Educa.						
(d) Other Ungraded						
TOTAL Classroom Teachers	9		9			9
(4) Other Instructional Staff	1		1			1
(5) TOTAL of (1),(2),(3),(4)	11		11			11
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	1		1			1
(2) Transfers (staff members transferred from another school of this system)						
(3) TOTAL of (1) and (2)	1		1			1

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1933-34

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1957-58 2. Elementary classrooms, 1962-63

Assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

[signature] Supt. 583-2151 10-4-68

Signature and Title of Person Furnishing Information Telephone Number Date Signed

...able him to ascertain whether the recipient has complied or ...plying with this Regulation.

Due October 15, 1968

Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 00 042 042
Name of School: Thomas Shields Elementary School
Street Address: P. O. Box 158
City, County, State, Zip Code: Hobgood, Halifax County, N. C. 27843

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒

Students and professional Staff

Report number of persons in each category. Do not use percentages.

MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)

		Column 1 School Total (BOTH minority and non-minority groups)	Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	29		29			29
	2	21		21			21
	3	23		23			23
	4	24		24			24
	5	24		24			24
	6	28		28			28
	7	18		18			18
	8	20		20			20
	9						
	10						
	11						
	12						
Ungraded, Special Educa.		16		16			16
Other Ungraded							
TOTAL Enrollment		203		203			203
Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1	1		1			1
	2	1		1			1
	3	1		1			1
	4	1		1			1
	5	1		1			1
	6	1		1			1
	7	.5		.5			.5
	8	.5		.5			.5
(b) Secondary Classroom Teachers (as a group)							
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded							
TOTAL Classroom Teachers		8		8			8
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		9		9			9
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		2		2			2
(2) Transfers (staff members transferred from another school of this system)							

Students and professional Staff Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students Pre-K						
K						
1	29		29			29
2	21		21			21
3	23		23			23
4	24		24			24
5	24		24			24
6	28		28			28
7	18		18			18
8	20		20			20
9						
10						
11						
12						
Ungraded, Special Educa.	16		16			16
Other Ungraded						
TOTAL Enrollment	203		203			203
Professional Instructional Staff Assigned to this School on a Full-Time Basis.						
(1) The Principal	1		1			1
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary Classroom Teachers (by grade) K						
1	1		1			1
2	1		1			1
3	1		1			1
4	1		1			1
5	1		1			1
6	1		1			1
7	.5		.5			.5
8	.5		.5			.5
(b) Secondary Classroom Teachers (as a group)						
(c) Ungraded, Special Educa.	1		1			1
(d) Other Ungraded						
TOTAL Classroom Teachers	8		8			8
(4) Other Instructional Staff						
(5) TOTAL of (1),(2),(3),(4)	9		9			9
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	2		2			2
(2) Transfers (staff members transferred from another school of this system)						
(3) TOTAL of (1) and (2)	2		2			2

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

F. In what school year (e.g. 1966-67) did this school first enroll students? 1920-21

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1957-58 2. Elementary classrooms, 1958-59

Assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may cure a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

[illegible] Sup. 583-2151 10-1-68

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 2, CO Ch2 Ch2
Name of School: Scotland Neck High School
Street Address: Main Street
City, County, State, Zip Code: Scotland Neck, Halifax County, N. C. 27874
A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.
B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☐

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	70		2			2
	2	73		6			6
	3	54		2			2
	4	61		2			2
	5	82		6			6
	6	62		3			3
	7	127		68			68
	8	148		85			85
	9	82		4			4
	10	66		8			8
	11	74		1			1
	12	80		6			6
	Ungraded, Special Educa.						
	Other Ungraded						
	TOTAL Enrollment	979		193			193
Professional Instructional Staff Assigned to this School on a full-time basis:							
(1) The Principal		1					
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1	3					
	2	3					
	3	2					
	4	2					
	5	3		1			1
	6	2					
	7	6		3			3
	8	6		3			3
(b) Secondary Classroom Teachers (as a group)		27		3			3
(c) Ungraded, Special Educa.							
(d) Other Ungraded							
TOTAL Classroom Teachers		44		10			10
(4) Other Instructional Staff		1					
(5) TOTAL of (1),(2),(3),(4)		46		10			10
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		9		2			2
(2) Transfers (staff members transferred from another school of this system)		5		6			6

Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	(Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students Pre-K						
K						
1	70		2			2
2	73		6			6
3	54		2			2
4	61		2			2
5	82		6			6
6	62		3			3
7	127		68			68
8	148		85			85
9	82		4			4
10	66		8			8
11	74		1			1
12	80		6			6
Ungraded, Special Educa.						
Other Ungraded						
TOTAL Enrollment	979		193			193
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis						
(1) The Principal	1					
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary K						
Classroom 1	3					
Teachers (by grade) 2	3					
3	2					
4	2					
5	3		1			1
6	2					
7	6		3			3
8	6		3			3
(b) Secondary Classroom Teachers (as a group)	17		3			3
(c) Ungraded, Special Educa.						
(d) Other Ungraded						
TOTAL Classroom Teachers	44		10			10
(4) Other Instructional Staff	1					
(5) TOTAL of (1),(2),(3),(4)	46		10			10
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	9		2			2
(2) Transfers (staff members transferred from another school of this system)	5		6			6
(3) TOTAL of (1) and (2)	14		8			8

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

I. In what school year (e.g. 1966-67) did this school first enroll students? 1903-04

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1954-55 2. Elementary classrooms, 1960-61

assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may aire a refiling of this form.

tification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

[illegible] Supt. 583-2151 10-4-68

[illegible] Telephone Number Date [illegible]

732

Name of School System: Halifax County School Administrative Unit

OCR School System Number: 30 CO C 2 C 2

Name of School: Fifteen Elementary School

Street Address: Route 3, Box 2-5

City, County, State, Zip Code: Enfield, Halifax County, N. C. 27823

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	58		50			58
	2	56		56			56
	3	53		53			53
	4	56		56			56
	5	45		45			45
	6	57		57			57
	7	33		33			33
	8	46		46			46
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	16		16			16
	Other Ungraded						
	TOTAL Enrollment	420		420			420
B. Professional Instructional Staff Assigned to this School on a Full Time Basis							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers Pre-K						
	(a) Elementary K						2
	Classroom 1	2		2			2
	Teachers (by grade) 2	2		2			2
	3	2		2			2
	4	2		2			2
	5	2		2			2
	6	2		2			1.5
	7	1.5		1.5			1.5
	8	1.5		1.5			
	(b) Secondary Classroom Teachers (as a group)						1
	(c) Ungraded, Special Educa.	1		1			
	(d) Other Ungraded						16
	TOTAL Classroom Teachers	16		16			
(4)	Other Instructional Staff						17
(5)	TOTAL of (1),(2),(3),(4)	17		17			
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)	1		1			1

Students and professional staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
A. Enrolled Students	Pre-K						
	K	58		58			58
	1	56		56			56
	2	53		53			53
	3	56		56			56
	4	45		45			45
	5	57		57			57
	6	33		33			33
	7	46		46			46
	8						
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	16		16			16
	Other Ungraded						
	TOTAL Enrollment	420		420			420
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre K						
(a) Elementary Classroom Teachers (by grade)	K	2		2			2
	1	2		2			2
	2	2		2			2
	3	2		2			2
	4	2		2			2
	5	2		2			2
	6	1.5		1.5			1.5
	7	1.5		1.5			1.5
	8						
(b) Secondary Classroom Teachers (as a group)		1		1			1
(c) Ungraded, Special Educa.							
(d) Other Ungraded							
TOTAL Classroom Teachers		16		16			16
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		17		17			17
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		1		1			1
(2) Transfers (staff members transferred from another school of this system)							
(3) TOTAL of (1) and (2)		1		1			1

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VII furnished as of (Date) 9-12-68

II. In what school year (e.g. 1966-67) did this school first enroll students? 1959-60

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1961-62 2.

I assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law U.S. Code Title 18, Section 1001.)

[signature] Supt. 533-2751 10-4-68

733

ment official or his designee may determine to be necessary ble him to ascertain whether the recipient has complied or plying with this Regulation.

Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO C:2 C:2
Name of School: Helper High School
Street Address: P. O. Box 1
City, County, State, Zip Code: Littleton, Halifax County, N. C. 27850

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☐	☐	☒	☒	☒	☒	☒

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	51		51			51
	2	50		50			50
	3	51		51			51
	4	47		47			47
	5	51		51			51
	6	52		52			52
	7						
	8						
	9	89		89			89
	10	75		75			75
	11	56		56			56
	12	40		40			40
	Ungraded, Special Educa.	10		10			10
	Other Ungraded						
	TOTAL Enrollment	572		572			572
Professional Instructional Staff Assigned to this School on a [illegible] Basis							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary Classroom Teachers (by grade)	K					
		1	2	2			2
		2	2	2			2
		3	2	2			2
		4	2	2			2
		5	2	2			2
		6	2	2			2
		7					
		8					
	(b) Secondary Classroom Teachers (as a group)		12	12			12
	(c) Ungraded, Special Educa.		1	1			1
	(d) Other Ungraded						
	TOTAL Classroom Teachers		25	25			25
(4)	Other Instructional Staff						
(5)	TOTAL of (1),(2),(3),(4)		26	26			26
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	51		51			51
	2	50		50			50
	3	51		51		1	51
	4	47		47			47
	5	51		51			51
	6	52		52			52
	7						
	8						
	9	89		89			89
	10	75		75			75
	11	56		56			56
	12	40		40			40
Ungraded, Special Educa.		10		10			10
Other Ungraded							
TOTAL Enrollment		572		572			572
Professional Instructional Staff Assigned to this School on a							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom	1	2		2			2
Teachers (by grade)	2	2		2			2
	3	2		2			2
	4	2		2			2
	5	2		2			2
	6	2		2			2
	7						
	8						
(b) Secondary Classroom Teachers (as a group)		12		12			12
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded							
TOTAL Classroom Teachers		25		25			25
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		26		26			26
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		2		2			2
(2) Transfers (staff members transferred from another school of this system)							
(3) TOTAL of (1) and (2)		2		2			2

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VI furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1927-28

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1964-65 2. High School classrooms, 1959-60

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by Law, U.S. Code, Title 18, Section 1001.)

able him to ascertain whether the recipient has complied or complying with this Regulation.

Due October 15, 1968 | Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO C12 C12
Name of School: John Armstrong Chaloner High School
Street Address: P. O. Box 160
City, County, State, Zip Code: Roanoke Rapids, Halifax County, N. C. 27870
A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☐	☐	☒	☒	☒	☒	☒

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
A. Enrolled Students	Pre-K						
	K						
	1	64		64			64
	2	61		61			61
	3	70		70			70
	4	52		52			52
	5	74		74			74
	6	62		62			62
	7						
	8						
	9	92		92			92
	10	74		74			74
	11	63		63			63
	12	58		58			58
	Ungraded, Special Educa.	10		10			10
	Other Ungraded						
	TOTAL Enrollment	600		600			600
B. Professional Instructional Staff Full-Time Basis.							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary Classroom Teachers (by grade)	K					
		1	2.5	2.5			2.5
		2	2.5	2.5			2.5
		3	3	3			3
		4	2	2			2
		5	2	2			2
		6	2	2			2
		7					
		8					
	(b) Secondary Classroom Teachers (as a group)		14	14			14
	(c) Ungraded, Special Educa.		1	1			1
	(d) Other Ungraded						
	TOTAL Classroom Teachers		29	29			29
(4)	Other Instructional Staff		1	1			1
(5)	TOTAL of (1),(2),(3),(4)		31	31			31
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							

Students and professional staff Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
A. Enrolled Students — Pre-K						
K						
1	64		64			64
2	61		61			61
3	70		70			70
4	52		52			52
5	74		74			74
6	62		62			62
7						
8						
9	92		92			92
10	74		74			74
11	63		63			63
12	58		58			58
o Ungraded, Special Educa.	10		10			10
Other Ungraded						
TOTAL Enrollment	680		680			680
B. Professional Instructional Staff Full-Time Basis.						
(1) The Principal	1		1			1
(2) Assistant Principals						
(3) Classroom Teachers — Pre-K						
(a) Elementary — K						
Classroom — 1	2.5		2.5			2.5
Teachers (by grade) — 2	2.5		2.5			2.5
3	3		3			3
4	2		2			2
5	2		2			2
6	2		2			2
7						
8						
(b) Secondary Classroom Teachers (as a group)	14		14			14
(c) Ungraded, Special Educa.	1		1			1
(d) Other Ungraded						
TOTAL Classroom Teachers	29		29			29
(4) Other Instructional Staff	1		1			1
(5) TOTAL of (1),(2),(3),(4)	31		31			31
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	3		3			3
(2) Transfers (staff members transferred from another school of this system)						
(3) TOTAL of (1) and (2)	3		3			3

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VII furnished as of (Date) 9-12-68

I. In what school year (e.g. 1966-67) did this school first enroll students? 1923-24

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (a) temporary structures such as mobile classrooms or (b) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1955-56 2. High School building, 1958-59

assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

tification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

30.1.69

735

artment official or his designee may determine to be necessary able him to ascertain whether the recipient has complied or mplying with this Regulation.

Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO Ch2 Ch2
Name of School: Inborden High School
Street Address: P. O. Box 427
City, County, State, Zip Code: Enfield, Halifax County, N. C. 27823

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "X" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒	☒	☒	☒	☐

Students and professional Staff

Report numbers of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1						
	2						
	3						
	4						
	5						
	6						
	7						
	8						
	9	219		219			219
	10	114		114			114
	11	68		68			68
	12	68		68			68
	Ungraded, Special Educa.						
	Other Ungraded						
	TOTAL Enrollment	469		469			469
B. Professional Instructional Staff Assigned to this School on a full-time basis							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1						
	2						
	3						
	4						
	5						
	6						
	7						
	8						
(b) Secondary Classroom Teachers (as a group)		17		16			16
(c) Ungraded, Special Educa.							
(d) Other Ungraded							
TOTAL Classroom Teachers		17		16			16
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		18		17			17
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		5		4			4
(2) Transfers (staff members transferred from another							

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
A. Enrolled Students	Pre-K						
	K						
	1						
	2						
	3						
	4						
	5						
	6						
	7						
	8						
	9	219		219			219
	10	114		114			114
	11	68		68			68
	12	68		68			68
	Ungraded, Special Educa.						
	Other Ungraded						
	TOTAL Enrollment	469		469			469
B. Professional Instructional Staff Assigned to this School on a full-time basis							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1						
	2						
	3						
	4						
	5						
	6						
	7						
	8						
(b) Secondary Classroom Teachers (as a group)		17		16			16
(c) Ungraded, Special Educa.							
(d) Other Ungraded							
TOTAL Classroom Teachers		17		16			16
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		18		17			17
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		5		4			4
(2) Transfers (staff members transferred from another school of this system)							
(3) TOTAL of (1) and (2)		5		4			4

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VII furnished as of (Date) 9-12-68

I. In what school year (e.g. 1966-67) did this school first enroll students? 1951-52

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. High School building, 1955-56 2. High School classrooms, 1961-62

I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law.)

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law.)

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

partment official or his designee may determine to be necessary able him to ascertain whether the recipient has complied or mplying with this Regulation.

Required Under Title VI of the Civil Rights Act of 1964 — Due October 15, 1968

Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO 042 042
Name of School: Inborden Elementary School
Street Address: P. O. Box 457
City, County, State, Zip Code: Enfield, Halifax County, N. C. 27823
A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.
B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☐	☒	☐	☐	☐	☐	☒

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	136		136			136
	2	115		115			115
	3	123		123			123
	4	146		146			146
	5	136		136			136
	6	145		145			145
	7						
	8	133		133			133
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	15		15			15
	Other Ungraded						
	TOTAL Enrollment	949		949			949
Professional Instructional Staff							
Full-Time Basis							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary Classroom Teachers (by grade)	K					
		1	5	5			5
		2	4	4			4
		3	4	4			4
		4	5	5			5
		5	4	4			4
		6	4	4			4
		7					
		8	4	4			4
	(b) Secondary Classroom Teachers (as a group)		2	2			2
	(c) Ungraded, Special Educa.						
	(d) Other Ungraded						
	TOTAL Classroom Teachers		31	31			31
(4)	Other Instructional Staff		1	1			1
(5)	TOTAL of (1),(2),(3),(4)		33	33			33
3. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)		3	3			3
(2)	Transfers (staff members						

Students and professional staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	136		136			136
	2	115		115			115
	3	123		123			123
	4	146		146			146
	5	136		136			136
	6	145		145			145
	7						
	8	133		133			133
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	15		15			15
	Other Ungraded						
	TOTAL Enrollment	949		949			949
Professional Instructional Staff							
Full-Time Basis							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary	K					
	Classroom	1	5	5			5
	Teachers (by grade)	2	4	4			4
		3	4	4			4
		4	5	5			5
		5	4	4			4
		6	4	4			4
		7					
		8	4	4			4
	(b) Secondary Classroom Teachers (as a group)						
	(c) Ungraded, Special Educa.		1	1			1
	(d) Other Ungraded						
	TOTAL Classroom Teachers		31	31			31
(4)	Other Instructional Staff		1	1			1
(5)	TOTAL of (1),(2),(3),(4)		33	33			33
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)		3	3			3
(2)	Transfers (staff members transferred from another school of this system)						
(3)	TOTAL of (1) and (2)		3	3			3

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item V furnished as of (Date) 9-12-63

In what school year (e.g. 1966-67) did this school first enroll students? 1962-63

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1960-61 2.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by Law, U.S. Code Title 18, Section 1001.)

10-1-63

787

nable him to ascertain whether the recipient has complied or complying with this Regulation.

Due: October 15, 1968 | Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO Ch2 C:2
Name of School: Hollister Elementary School
Street Address: P. O. Box 25
City, County, State, Zip Code: Hollister, Halifax County, N. C. 27844

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☐

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,&5)
Enrolled Students	Pre-K						
	K						
	1	36	5	31			36
	2	45	3	42			45
	3	38	2	36			38
	4	44	4	40			44
	5	39	2	37			39
	6	42	6	36			42
	7	47	2	45			47
	8	40	4	36			40
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.						
	Other Ungraded						
	TOTAL Enrollment	331	28	303			331
1. Professional Instructional Staff Assigned to this School on a Full-Time Basis							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary	K					
	Classroom	1	1.5	1.5			1.5
	Teachers (by grade)	2	1.5	1.5			1.5
		3	1.5	1.5			1.5
		4	1.5	1.5			1.5
		5	1.5	1.5			1.5
		6	1.5	1.5			1.5
		7	1.5	1.5			1.5
		8	1.5	1.5			1.5
	(b) Secondary Classroom Teachers (as a group)						
	(c) Ungraded, Special Educa.						
	(d) Other Ungraded						
	TOTAL Classroom Teachers		12	12			12
(4)	Other Instructional Staff						
(5)	TOTAL of (1),(2),(3),(4)		13	13			13
2. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)		1	1			1
(2)	Transfers (staff members transferred from another school of this system)						

Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students Pre-K						
K						
1	36	5	31			36
2	45	3	42			45
3	38	2	36			38
4	44	4	40			44
5	39	2	37			39
6	42	6	36			42
7	47	2	45			47
8	40	4	36			40
9						
10						
11						
12						
Ungraded, Special Educa.						
Other Ungraded						
TOTAL Enrollment	331	28	303			331
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis						
(1) The Principal	1		1			1
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary K						
Classroom 1	1.5		1.5			1.5
Teachers (by grade) 2	1.5		1.5			1.5
3	1.5		1.5			1.5
4	1.5		1.5			1.5
5	1.5		1.5			1.5
6	1.5		1.5			1.5
7	1.5		1.5			1.5
8	1.5		1.5			1.5
(b) Secondary Classroom Teachers (as a group)						
(c) Ungraded, Special Educa.						
(d) Other Ungraded						
TOTAL Classroom Teachers	12		12			12
(4) Other Instructional Staff						
(5) TOTAL of (1),(2),(3),(4)	13		13			13
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	1		1			1
(2) Transfers (staff members transferred from another school of this system)						
(3) TOTAL of (1) and (2)	1		1			1

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1917-18

State the school year in which additions to this School, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1960-61 2.

ssure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may ire a refiling of this form.

ification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 100.)

[illegible] 583-2151 10-4-68

738

complying with this Regulation

Due December 15, 19__ Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO C42 C42
Name of School: Emerson Elementary School
Street Address: Route 1, Box 213
City, County, State, Zip Code: Roanoke Rapids, Halifax County, N. C. 27870
A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.
B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungrad
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒

I. Students and professional Staff

Report number of persons in each category. Do not use percentages

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL ST (Persons included in Column 1 who are members of the minority groups listed be				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum Col. 2,3,4 &
A. Enrolled Students	Pre-K						
	K						
	1	56		56			56
	2	66		66			66
	3	62		62			62
	4	67		67			67
	5	57		57			57
	6	50		50			50
	7	60		60			60
	8	36		36			36
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	16		16			16
	Other Ungraded	8		8			8
	TOTAL Enrollment	478		478			478
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1)	Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary Classroom Teachers (by grade)	K					
		1	2.5	2.5			2.5
		2	2.5	2.5			2.5
		3	2.5	2.5			2.5
		4	2.5	2.5			2.5
		5	2	2			2
		6	2	2			2
		7	2.5	2.5			2.5
		8	1.5	1.5			1.5
	(b) Secondary Classroom Teachers (as a group)						
	(c) Ungraded, Special Educa.		1	1			1
	(d) Other Ungraded		1				
	TOTAL Classroom Teachers		20	19			19
(4)	Other Instructional Staff		1	1			1
(5)	TOTAL of (1),(2),(3),(4)		22	21			21
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members						

Students and Professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col 2,3,4 & 5)
A. Enrolled Students	Pre-K						
	K						
	1	56		56			56
	2	66		66			66
	3	62		62			62
	4	67		67			67
	5	57		57			57
	6	50		50			50
	7	60		60			60
	8	36		36			36
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	16		16			16
	Other Ungraded	8		8			8
	TOTAL Enrollment	478		478			478
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis							
(1)	Principals	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary Classroom Teachers (by grade)	K					
		1	2.5	2.5			2.5
		2	2.5	2.5			2.5
		3	2.5	2.5			2.5
		4	2.5	2.5			2.5
		5	2	2			2
		6	2	2			2
		7	2.5	2.5			2.5
		8	1.5	1.5			1.5
	(b) Secondary Classroom Teachers (as a group)						
	(c) Ungraded, Special Educa.		1	1			1
	(d) Other Ungraded		1				
	TOTAL Classroom Teachers		20	19			19
(4)	Other Instructional Staff		1	1			1
(5)	TOTAL of (1),(2),(3),(4)		22	21			21
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)		6	5			5
(2)	Transfers (staff members transferred from another school of this system)		1	1			1
(3)	TOTAL of (1) and (2)		7	6			6

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VII furnished as of (Date) 9-12-68

In what school year (e.g. 1956-57) did this school first enroll students? 1919-1920

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Elementary classrooms, 1960-61 2. Elementary classrooms, 1959-60

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law, U.S. Code, Title 18, Section 1001.)

[signature] Supt. 583-2151 10-4-68

Signature and Title of Person Furnishing Information

789

rtment official of the agency may be necessary to enable him to ascertain whether the recipient has complied or is complying with this Regulation.

Due October 15, 1968

Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 00 042
Name of School: Enfield Graded School
Street Address: Sherred Heights
City, County, State, Zip Code: Enfield, Halifax County, N. C. 27823
A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus
B. Grades offered (Put an "x" in the appropriate box for each grade offered at this School)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☐

Students and professional Staff

Report number of persons in each category. Do not use percentages.

	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
		Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students Pre-K						
K						2
1	37		2			5
2	32		5			5
3	32		5			6
4	37		6			10
5	44		10			7
6	39		7			123
7	154		123			6
8	53		6			5
9	50		5			2
10	33		2			1
11	35		1			5
12	33		5			
Ungraded, Special Educa.						
Other Ungraded						177
TOTAL Enrollment	579		177			
Professional Instructional Staff Assigned to this School on a Full-Time Basis.						
(1) The Principal	1					
(2) Assistant Principals						
(3) Classroom Teachers, Pre-K						
(a) Elementary K						
Classroom 1	1.5					
Teachers (by grade) 2	1.5					
3	1					
4	1.5					
5	1.5					
6	1					1
7	5		1			1
8	2		1			
(b) Secondary Classroom Teachers (as a group)	11		2			2
(c) Ungraded, Special Educa.						
(d) Other Ungraded						4
TOTAL Classroom Teachers	26		4			
(4) Other Instructional Staff	1					4
(5) TOTAL of (1),(2),(3),(4)	28		4			

C. Vacancies Filled in Full-Time Pro-

Students and professional Staff Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5
Enrolled Students — Pre-K						
K						
1	37		2			2
2	32		5			5
3	32		5			5
4	37		6			6
5	44		10			10
6	39		7			7
7	154		123			123
8	53		6			6
9	50		5			5
10	33		2			2
11	35		1			1
12	33		5			5
Ungraded, Special Educa.						
Other Ungraded						
TOTAL Enrollment	579		177			177
Professional Instructional Staff Assigned to this School on a Full-Time Basis.						
(1) The Principal	1					
(2) Assistant Principals		1				
(3) Classroom Teachers — Pre-K						
(a) Elementary — K						
Classroom — 1	1.5					
Teachers (by grade) — 2	1.5					
3	1					
4	1.5					
5	1.5					
6	1					
7	5		1			1
8	2		1			1
(b) Secondary Classroom Teachers (as a group)	11		2			2
(c) Ungraded, Special Educa.						
(d) Other Ungraded						
TOTAL Classroom Teachers	26		4			4
(4) Other Instructional Staff	1					
(5) TOTAL of (1),(2),(3),(4)	28		4			4
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	10		2			2
(2) Transfers (staff members transferred from another school of this system)	2		2			2
(3) TOTAL of (1) and (2)	12		4			4

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item 1 furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1950-51

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. None 2. None

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

[illegible] [illegible] 10-1-68

ly, complete and accurate compliance reports at such times, in such form containing such information as the responsible ...rtment official or his designee may determine to be necessary ...able him to ascertain whether the recipient has complied or ...mplying with this Regulation.

FALL 1968 ELEMENTARY AND SECONDARY SCHOOL SURVEY
Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

No: 51-R0551
Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 00 042 042
Name of School: Eastman High School
Street Address: Route 2, Box 141
City, County, State, Zip Code: Enfield, Halifax County, N. C. 27823

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	x	x	x	x	x	x	x	x	x	x	x	x	☐

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	50		50			50
	2	58		58			58
	3	41		41			41
	4	65		65			65
	5	46		46			46
	6	54		54			54
	7	59		59			59
	8	59		59			59
	9	169	2	167			169
	10	146		146			146
	11	108		108			108
	12	97		97			97
Ungraded, Special Educa.							
Other Ungraded							
TOTAL Enrollment		952	2	950			952
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom	1	2		2			2
Teachers (by grade)	2	2	1	1			2
	3	2		2			2
	4	2		2			2
	5	2		2			2
	6	2		2			2
	7	2		2			2
	8	2		2			2
(b) Secondary Classroom Teachers (as a group)		16	1	15			16
(c) Ungraded, Special Educa.							
(d) Other Ungraded							
TOTAL Classroom Teachers		32	2	30			32
(4) Other Instructional Staff		5		5			5

Students and professional Staff Report number of persons in each category. Do not use percentages.	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students Pre-K						
K						
1	50		50			50
2	58		58			58
3	41		41			41
4	65		65			65
5	46		46			46
6	54		54			54
7	59		59			59
8	59		59			59
9	169	2	167			169
10	146		146			146
11	108		108			108
12	97		97			97
Ungraded, Special Educa.						
Other Ungraded						
TOTAL Enrollment	952	2	950			952
B. Professional Instructional Staff Assigned to this School on a Full-Time Basis.						
(1) The Principal	1		1			1
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary K						
Classroom 1	2		2			2
Teachers (by grade) 2	2	1	1			2
3	2		2			2
4	2		2			2
5	2		2			2
6	2		2			2
7	2		2			2
8	2		2			2
(b) Secondary Classroom Teachers (as a group)	16	1	15			16
(c) Ungraded, Special Educa.						
(d) Other Ungraded						
TOTAL Classroom Teachers	32	2	30			32
(4) Other Instructional Staff	5		5			5
(5) TOTAL of (1),(2),(3),(4)	38	2	36			38
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	7		7			7
(2) Transfers (staff members transferred from another school of this system)						
(3) TOTAL of (1) and (2)	7		7			7

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. ~~Data~~ for Item VII furnished as of (Date) 9-12-68

I. In what school year (e.g. 1966-67) did this school first enroll students? 1919

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. High School classroom, 1956-57 2. Primary classrooms, 1959-60

assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may uire a refiling of this form

tification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

741

it to the responsible Department official or his designee g, complete and accurate compliance reports at such times, n such form containing such information as the responsible rtment official or his designee may determine to be necessary able him to ascertain whether the recipient has complied or nplying with this Regulation.

BY GRADE

FALL 1968 ELEMENTARY AND SECONDARY SCHOOL SURVEY
Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

Budget Bureau No. 51-R0551
Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 GO C42 C42
Name of School: Dawson Elementary School
Street Address: Route 1, P. O. Drawer I
City, County, State, Zip Code: Scotland Neck, Halifax County, N. C. 27874

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	49		49			49
	2	51		51			51
	3	51		51			51
	4	48		48			48
	5	59		59			59
	6	50		50			50
	7	62		62			62
	8	63		63			63
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	15		15			15
	Other Ungraded	11		11			11
	TOTAL Enrollment	459		459			459
Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom Teachers (by grade)	1	2		2			2
	2	2		2			2
	3	2		2			2
	4	2		2			2
	5	1		1			1
	6	2		2			2
	7	2		1			1
	8	2		1			1
(b) Secondary Classroom Teachers (as a group).							
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded		1		1			1
TOTAL Classroom Teachers		17		15			15
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		18		16			16

C. Vacancies Filled in Full-Time Professional Instructional Staff of this

Pre-K ☐ K ☐ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☒ 7 ☒ 8 ☒ 9 ☐ 10 ☐ 11 ☐ 12 ☐

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	49		49			49
	2	51		51			51
	3	51		51			51
	4	48		48			48
	5	59		59			59
	6	50		50			50
	7	62		62			62
	8	63		63			63
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	15		15			15
	Other Ungraded	11		11			11
	TOTAL Enrollment	459		459			459
B. Professional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1	2		2			2
	2	2		2			2
	3	2		2			2
	4	2		2			2
	5	1		1			1
	6	2		2			2
	7	2		1			1
	8	2		1			1
(b) Secondary Classroom Teachers (as a group)							
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded		1		1			1
TOTAL Classroom Teachers		17		15			15
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		18		16			16
C. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system).		4		2			2
(2) Transfers (staff members transferred from another school of this system)							
(3) TOTAL of (1) and (2)		4		2			2

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

I. In what school year (e.g. 1966-67) did this school first enroll students? 1935-36

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Classrooms, 1960-61 2. Classrooms, 1950-59

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

(Affirmation) I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable

742

...complete and accurate compliance reports at such times, ...such form containing such information as the responsible ...rtment official or his designee may determine to be necessary ...able him to ascertain whether the recipient has complied or ...plying with this Regulation.

FALL 1968 ELEMENTARY AND SECONDARY SCHOOL SURVEY
Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

No. 51-R0551
Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO C42 C42
Name of School: Brawley High School
Street Address: 16th Street
City, County, State, Zip Code: Scotland Neck, Halifax County, N. C. 27874

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☐	☐	☒	☒	☒	☒	☒

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	60		60			60
	2	59		59			59
	3	54		54			54
	4	49		49			49
	5	66		66			66
	6	61		61			61
	7						
	8						
	9	288		288			288
	10	182		182			182
	11	154		154			154
	12	118		118			118
Ungraded, Special Educa.		15		15			15
Other Ungraded							
TOTAL Enrollment		1,106		1,106			1,106
[illegible] Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary Classroom Teachers (by grade)	K						
	1	3		3			3
	2	2		2			2
	3	2		2			2
	4	2		2			2
	5	2		2			2
	6	2		2			2
	7						
	8						
(b) Secondary Classroom Teachers (as a group)		23		23			23
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded							
TOTAL Classroom Teachers		37		37			37
(4) Other Instructional Staff		2		2			2
(5) TOTAL of (1),(2),(3),(4)		40		40			40
Vacancies Filled in Full Time Professional Instructional Staff of this School since October 1, 1967							
(6) Newly hired staff members		[illegible]		[illegible]			[illegible]

Students and professional Staff

Report number of persons in each category. Do not use percentages.

		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4 & 5)
Enrolled Students	Pre-K						
	K						
	1	60		60			60
	2	59		59			59
	3	54		54			54
	4	49		49			49
	5	66		66			66
	6	61		61			61
	7						
	8						
	9	208		208			208
	10	182		182			182
	N	154		154			154
	12	118		118			118
	Ungraded, Special Educa.	15		15			15
	Other Ungraded						
	TOTAL Enrollment	1,106		1,106			1,106
Assigned to this School on a Full-Time Basis.							
(1)	The Principal	1		1			1
(2)	Assistant Principals						
(3)	Classroom Teachers	Pre-K					
	(a) Elementary	K					
	Classroom	1	3		3		3
	Teachers (by grade)	2	2		2		2
		3	2		2		2
		4	2		2		2
		5	2		2		2
		6	2		2		2
		7					
		8					
	(b) Secondary Classroom Teachers (as a group)		23		23		23
	(c) Ungraded, Special Educa.		1		1		1
	(d) Other Ungraded						
	TOTAL Classroom Teachers		37		37		37
(4)	Other Instructional Staff		2		2		2
(5)	TOTAL of (1),(2),(3),(4)		40		40		40
Vacancies Filled in Full Time Professional Instructional Staff of this School since October 1, 1967							
(1)	Newly hired staff members (new to this system)		20		20		20
(2)	Transfers (staff members transferred from another school of this system)						
(3)	TOTAL of (1) and (2)		20		20		20

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VII furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? Elementary - 1905; High School - 1932

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE".)

1. High School classrooms, 1955-56 2. Elementary classrooms, 1960-61

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by

...complete and accurate compliance report, ... in such form containing such information as the responsible ...tment official or his designee may determine to be necessary ...able him to ascertain whether the recipient has complied or ...mplying with this Regulation.

FALL 1968 ELEMENTARY AND SECONDARY SCHOOL SURVEY
Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

No. 51-R055
Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 CO 042 042
Name of School: Bakers Elementary School
Street Address: Box 309
City, County, State, Zip Code: Scotland Neck, Halifax County, N. C. 27874

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
			Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students	Pre-K						
	K						
	1	27		27			27
	2	34		34			34
	3	36		36			36
	4	29		29			29
	5	43		43			43
	6	38		38			38
	7	33		33			33
	8	34		34			34
	9						
	10						
	11						
	12						
	Ungraded, Special Educa.	9		9			9
	Other Ungraded						
	TOTAL Enrollment	283		283			283
1. Professional Instructional Staff Assigned to this School on a Full-Time Basis.							
(1) The Principal		1		1			1
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom	1	1		1			1
Teachers (by grade)	2	1.5		1.5			1.5
	3	1.5		1.5			1.5
	4	1		1			1
	5	1.5		1.5			1.5
	6	1.5		1.5			1.5
	7	1					
	8	1		1			1
(b) Secondary Classroom Teachers (as a group)							
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded							
TOTAL Classroom Teachers		11		10			10
(4) Other Instructional Staff							
(5) TOTAL of (1),(2),(3),(4)		12		11			11
2. Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							

Students and professional Staff

Report number of persons in each category. Do not use percentages.

	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below)				
		Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students Pre-K						
K						
1	27		27			27
2	34		34			34
3	36		36			36
4	29		29			29
5	43		43			43
6	38		38			38
7	33		33			33
8	34		34			34
9						
10						
11						
12						
Ungraded, Special Educa.	9		9			9
Other Ungraded						
TOTAL Enrollment	283		283			283
Professional Instructional Staff Assigned to this School on a Full-Time Basis.						
(1) The Principal	1		1			1
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary K						
Classroom 1	1		1			1
Teachers (by grade) 2	1.5		1.5			1.5
3	1.5		1.5			1.5
4	1		1			1
5	1.5		1.5			1.5
6	1.5		1.5			1.5
7	1					
8	1		1			1
(b) Secondary Classroom Teachers (as a group)						
(c) Ungraded, Special Educa.	1		1			1
(d) Other Ungraded						
TOTAL Classroom Teachers	11		10			10
(4) Other Instructional Staff						
(5) TOTAL of (1),(2),(3),(4)	12		11			11
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	1					
(2) Transfers (staff members transferred from another school of this system)						
(3) TOTAL of (1) and (2)	1					

D. Number of Current Vacancies in Full-time professional instructional staff: 0

E. Data for Item VII furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1959-60

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures, such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Classrooms, 1961-62 2.

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

...rtment official so his designee may determine to be necessary ...able him to ascertain whether the recipient has complied or ...mplying with this Regulation.

Required Under Title VI of the Civil Rights Act of 1964
Due October 15, 1968

Expiration Date: 6/30/69

Name of School System: Halifax County School Administrative Unit
OCR School System Number: 34 00 042 042
Name of School: Aurolian Springs High School
Street Address: Route 2
City, County, State, Zip Code: Littleton, Halifax County, N. C. 27850

A. Number of Campuses at this School: 1 NOTE: File a separate report form (OS/CR 102-1) for each campus.

B. Grades offered (Put an "x" in the appropriate box for each grade offered at this school)

Pre-K	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded
☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☐

Students and professional Staff

Report number of persons in each category. Do not use percentages.

	Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,& 5)
Enrolled Students Pre-K						
K						
1	28	3				3
2	25					
3	28					
4	20					
5	30		1			1
6	20	1				1
7	78	1	52			53
8	86	2	62			64
9	54	22	1			23
10	44	18				18
11	44	11	2			13
12	46	10				10
Ungraded, Special Educa.						
Other Ungraded						
TOTAL Enrollment	503	68	118			186
Professional Instructional Staff						
Full-Time Basis.						
(1) The Principal	1					
(2) Assistant Principals						
(3) Classroom Teachers Pre-K						
(a) Elementary K						
Classroom 1	1					
Teachers (by grade) 2	1					
3	1					
4	1					
5	1					
6	1					
7	3					
8	3		2			2
(b) Secondary Classroom Teachers (as a group)	10		2			2
(c) Ungraded, Special Educa.	1		1			1
(d) Other Ungraded						
TOTAL Classroom Teachers	23		5			5
(4) Other Instructional Staff	1					
(5) TOTAL of (1),(2),(3),(4)	25		5			5
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967						
(1) Newly hired staff members (new to this system)	1		1			1

Students and professional Staff Report number of persons in each category. Do not use percentages.		Column 1 School Total (BOTH minority and non-minority groups)	MINORITY GROUP MEMBERSHIP OF STUDENTS AND PROFESSIONAL STAFF (Persons included in Column 1 who are members of the minority groups listed below) Column 2 American Indian	Column 3 Negro	Column 4 Oriental	Column 5 Spanish Surnamed American	Column 6 Total Minority Group (Sum of Col. 2,3,4,&5)
Enrolled Students	Pre-K						
	K						
	1	28	3				3
	2	25					
	3	28					
	4	20					
	5	30		1			1
	6	20	1				1
	7	78	1	52			53
	8	86	2	62			64
	9	54	22	1			23
	10	44	18				18
	11	44	11	2			13
	12	46	10				10
	Ungraded, Special Educa.						
	Other Ungraded						
	TOTAL Enrollment	503	68	118			186
Professional Instructional Staff Full-Time Basis.							
(1) The Principal		1					
(2) Assistant Principals							
(3) Classroom Teachers	Pre-K						
(a) Elementary	K						
Classroom	1	1					
Teachers (by grade)	2	1					
	3	1					
	4	1					
	5	1					
	6	1					
	7	3					
	8	3		2			2
(b) Secondary Classroom Teachers (as a group)		10		2			2
(c) Ungraded, Special Educa.		1		1			1
(d) Other Ungraded							
TOTAL Classroom Teachers		23		5			5
(4) Other Instructional Staff		1					
(5) TOTAL of (1),(2),(3),(4)		25		5			5
Vacancies Filled in Full-Time Professional Instructional Staff of this School since October 1, 1967							
(1) Newly hired staff members (new to this system)		4		1			1
(2) Transfers (staff members transferred from another school of this system)		4		2			2
(3) TOTAL of (1) and (2)		8		3			3

D. Number of Current Vacancies in Full-time professional instructional staff. 0

E. Data for Item VI furnished as of (Date) 9-12-68

In what school year (e.g. 1966-67) did this school first enroll students? 1885

State the school year in which additions to this school, if any, were opened. Include only the two most recent additions. Do not include additions opened before 1954-1955 school year. For the purpose of this question, additions do NOT include (A) temporary structures such as mobile classrooms, or (B) structures which do not increase the student capacity of the school, such as a cafeteria, gymnasium, or school library. (If no additions, write "NONE.")

1. Renovated vacant gymnasium, 1968 2. Primary classrooms, 1961

To assure the submission of correct Title VI compliance data, please check the completeness and accuracy of each item reported. Errors of omissions may require a refiling of this form.

Certification: I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law. U.S. Code Title 18, Section 1001.)

745

NORTH CAROLINA SCHOOL FACILITIES PROGRAM 1963

FORM SP-2
(REVISED)

SUMMARY OF PROPOSED CONSTRUCTION

Instructions:

File one copy with the Division of School Planning. Only one of these is required for each administrative unit.

Administrative Unit Halifax County

School Enrollment 10,842 (November 30, 1965)

Total taxable property in the county . . . . . $ 92,992,600.00

Total indebtedness for school purposes . . . . . $ 2,363,887.50 for thr[illegible]

Tax rate for school capital outlay . . . . . $ .325 per $100.00 valuation.

Tax rate for school current expense . . . . . $ .36 per $100.00 valuation.

Supplementary Tax: voted . . . . . $ .00 per $100.00 valuation.

levied . . . . . $ .00 per $100.00 valuation.

I. CAPITAL OUTLAY FUNDS AVAILABEE (Indicate estimates with an asterisk*)

	1966-67	1967-68	1968-69	1969-70
A. From local capital outlay	*$138,358.02	*$150,000.00	*$150,000.00	*$150,000.00
B. Capital Outlay Reserve Fund				
C. Bonds—District				
D. Bonds—County				
E. Sale of school property				
F. Donations				
G. Insurance				
H. Federal Funds				
I. Other sources, not including State Funds (specify)				
J. Subtotal (A through I)	*$138,358.02	*$150,000.00	*$150,000.00	*$150,000.00
K. State Literary Fund				
L. Unexpended balance from SCHOOL PLANT CONSTRUCTION AND IMPROVEMENT FUND of 1953				
M. Funds from PUBLIC SCHOOL FACILITIES FUND of 1963	961,641.98			
N. Subtotal (K through M)	961,641.98			
O. TOTALS (J plus N)	1,100,000.00	*150,000.00	*150,000.00	*150,000.00

List in the order of priority, all school construction and improvement projects needed by September, 1970 whether or not funds are now available for all of them. File a Form SP-3 (Revised) for each project.

Project Number	Name of Project	Year construction is contemplated	State Funds (Show only funds known to be available at this time)	Other Funds	Total estimated cost
1	White Oak Addition	1966	165,000.00		165,000.00
2	Scotland Neck-High School Building-Gymnasium	1966	750,000.00		750,000.00
3	Brawley - Lunchroom	1966	46,641.98	78,358.02	125,000.00
4	McIver - Lunchroom	1967		95,000.00	95,000.00
5	Eastman - Lunchroom	1968		125,000.00	125,000.00
6	Inborden - Lunchroom	1968		140,000.00	140,000.00
7	McIver - Elementary Building	1969		150,000.00	150,000.00
Total			961,641.98	588,358.02	1,550,000.00

This is to certify that the information on this form is accurate and reliable.

This, the 24th day of February, 1966.

Board of Education

of the Halifax County Administrative Unit.

C. M. Meaney, Chairman

W. Sbury Cowman, Secretary

NORTH CAROLINA SCHOOL FACILITIES PROGRAM 1963

FORM SP-3 (REVISED)

PROJECT NO. 2

Instructions:
File one copy with Division of School Planning. Use project number to correspond to that given on Form SP-2 (Revised), Section II.

Administrative Unit: Halifax County

Name or proposed name of school: Scotland Neck

Number of acres now in the site: 10.35

Name of schools this project will replace: Replace obsolete high school building and gymnasium

I. Facilities proposed for this project:

No. of each	
10	Acres to be acquired
	Kindergarten rooms
	Self-contained primary classrooms
	Other elementary classrooms
	Special education classrooms
	Library, elementary
1	Library, high school
1	Home economics rooms
1	Biology or all-science rooms
1	Physics-chemistry rooms
1	Business education rooms
12	Other high school classrooms
1	Shops, agriculture
1	Shops, other (Use _____)
1	Music rooms
	Art rooms
1	Audiovisual rooms
1	Health clinic room
1	Guidance rooms
1	Teachers' rooms
2	Administrative office rooms
2	Pupils' toilet rooms
	Auditoriums
1	Gymnasiums
2	Gym dressing-showering rooms
	Multipurpose (Use _____)
1	Lunchrooms
1	Storage rooms
1	Janitors' closets
	Other (Specify _____)

II. Service systems proposed for this project:

Check	
x	Heating, Central system
	Water system
x	City owned
	School owned—pressure
	School owned—gravity
	Sewerage Disposal
x	City service
	Septic tank and nitrification bed
	Septic tank and sand filter

III. Check type of project:

	New plant on new site
x	New building at existing plant
	Addition to existing building
	Renovation of existing facilities
	Addition of new and renovation of old facilities

IV. What new equipment is included as part of this project? (Attach additional page if necessary.)

Furniture-Laboratory Equipment
Shop Equipment

V. Describe renovations which are a part of this project:

None

VI. Funds—Estimated amount to be spent on this project:

State Funds $. 750,000.00

Other Funds $

Total $ 750,000.00

A. How many pupils will go to this school after this project is completed?

Elementary
Junior high school (if applicable)
High school 305

B. How many pupils will be transported by school bus? 200

C. Distance farthest pupil will travel to and from school. (total) . . . . . 15 miles

D. Total time necessary for farthest pupil to travel to and from school. . . . . 2 hr. ____ min.

VIII. Long range plans for this school:

A. Probable enrollment:

	Sept. 1965	Sept. 1975
Elementary school		
Junior high school (if applicable)		
High school	305	370

B. Effect of possible consolidations on this school: No consolidation anticipated at this time-probable increase in enrollment due to integration

C. Effect of possible modification of administrative boundary lines or pupil assignment policies on this school: None

D. Curricular changes proposed for this school: Four year program in Foreign Language

E. Personnel available for operation of this school. Indicate number by job classification and source of funds for salaries.

1 principal	State Funds
15 teachers	State Funds
1 janitor	State Funds
1 maid	State Funds
4 Lunchroom Workers	Local Funds

This is to certify that the information contained on this form is accurate and reliable.

This, the 24th day of February, 1966.

Board of Education
of the Halifax County Administrative Unit

[signature], Chairman

[signature], Secretary

REPORT OF STATE REVIEW PANEL

Date February 24, 1966

Administrative Unit Halifax County

To: The State Board of Education,
Raleigh, North Carolina.

The State Review Panel has studied the plan of organization of schools and the plan of expenditure of school building funds as presented by the official representative(s) of the above school administrative unit and makes the following recommendations:

The panel agrees with the proposal of the Halifax County Board of Education to provide more adequate facilities for the secondary pupils in the Scotland Neck area, and would look with favor on plans to provide, on an adequate site, a facility that might be expanded to serve all secondary pupils in the area. However, the panel recommends that approval of the revised long-range plans be withheld until the Halifax County Board of Education can provide the State Board of Education with: (1) definite and precise plans for financing projects No. 3, 4, 5, 6, and 7 as listed on the revised SP-2; (2) definite plans for providing adequate facilities for the Haliwa children, who live in the county in case this becomes necessary. The panel recommends that State funds not be approved for the construction of a gymnasium in view of the other major needs, particularly classrooms, cafeterias, etc.

In session in Raleigh, North Carolina,
This the 24th of February, 1966.

/s/ J. L. Pierce
J. L. PIERCE
Chairman

D. J. DARK

A. B. COMBS

JAMES MANNING

T. CARL BROWN

DAN JONES

C. C. ERWIN

February 25, 1966

Dr. J. L. Pierce, Director
Division of School Planning
State Department of Public Instruction
Raleigh, North Carolina

Dear Dr. Pierce

Pursuant to the discussion before the State Review Panel on February 24, 1966, the Halifax County Board of Education passed a motion that adequate land to meet the requirements of a large high school would be purchased for the proposed Scotland Neck High School Building. The Board wishes to inform you also that this land is now available and can be purchased at a reasonable cost.

Sincerely yours,

W. HENRY OVERMAN
Superintendent
Halifax County Schools

WHO:ar

[State Seal]

STATE OF NORTH CAROLINA
SUPERINTENDENT OF PUBLIC INSTRUCTION
Raleigh

Charles F Carroll
Superintendent

March 7, 1966

Mr. W. Henry Overman, Superintendent
Halifax County Schools
Halifax, North Carolina

Dear Mr. Overman:

The State Board of Education at its meeting on March 3, 1966, took the following action relative to the long-range plan of school improvement and construction submitted by the Halifax County Board of Education:

"Approved the recommendations of the State Review Panel, dated February 24, 1966."

This approval is not to be interpreted to include a sum of State funds in excess of the amount to which your administrative unit is entitled. Contracts for the individual projects should not be executed until you have submitted an application based on firm bids and said application is *approved* by the State Board of Education.

A copy of the State Review Panel's recommendations to the State Board of Education is enclosed for your records.

Sincerely yours,

/s/ Charles F. Carroll
CHAS. F. CARROLL
State Superintendent of
Public Instruction

CFC/JLP/pj
Enclosure
cc: Dr. J. L. Pierce

March 15, 1966

Dr. Charles F. Carroll
State Superintendent
Department of Public Instruction
Raleigh, North Carolina

Dear Dr. Carroll:

The notice of the action of the State Board of Education on March 3, 1966 relative to the revised plan of school improvement and construction submitted by the Halifax County Board of Education has been received. It was noted that State Board of Education approved the recommendations of the State Review Panel which was to withhold action until the Halifax County Board of Education can provide the State Board of Education with definite and precise plans for financing proposed projects and providing adequate facilities for the Haliwa children who live in Halifax County.

The Halifax County Board of Education has directed me to request information as to the definite actions and procedures that must be taken by the Board of Education and/or other authorities in order to obtan approval of the revised Plan presented to the State Review Panel on February 24, 1966.

We will greatly appreciate your assistance.

Sincerely yours,

W. HENRY OVERMAN
Superintendent
Halifax County Schools

WHO:ar

DEPARTMENT OF PUBLIC INSTRUCTION
STATE OF NORTH CAROLINA
[State Seal] Raleigh

March 21, 1966

Mr. W. Henry Overman, Superintendent
Halifax County Schools
Halifax, North Carolina

Dear Mr. Overman:

In accordance with your request, we are arranging for you to present the long-range plans of the Halifax County School System to the State Review Panel on March 31, 1966, at 12:00 noon, in the Library, Room 312, Education Building.

It would be very helpful if you would send us, several days prior to the Review Panel, seven copies of the material that you will present in order that members of the panel might examine the material prior to the meeting. In case you are not able to supply sufficient copies for each member of the Review Panel, we would appreciate receiving one copy early enough prior to March 31 to route this to each panel member. We would prefer to have the long-range plans bound or stapled and the SP-1, 2, and 3's in loose leaf form.

In presenting your long-range plans to the Review Panel, please be prepared to explain to what extent these plans have been discussed with the County Commissioners.

Sincerely yours,

/s/ J. L. Pierce
J. L. PIERCE
Director
Division of School Planning

JLP:dr

[State Seal]

State Of North Carolina
Superintendent of Public Instruction
Raleigh

CHARLES F. CARROLL
Superintendent

Superintendent W. Henry Overman
Halifax County Schools
Halifax, North Carolina

Dear Mr. Overman:

I have discussed with Dr. J. L. Pierce your letter of March 15, in which you state that the Halifax County Board of Education wants information as to the definite actions and procedures that must be taken either by said Board or by other authorities in order to obtain approval of the Revised Plan presented to the State Review Panel on February 24, 1966.

Dr. Pierce and I are of the opinion that it will be desirable for you and your Board to discuss this matter with the Building Committee of the State Board of Education which will be in session next on Thursday morning, April 7. If you will indicate very soon the fact that you would like to appear before this Committee, I shall gladly arrange for such.

With all good wishes, I am

Sincerely yours,

/s/ Charles F. Carroll
CHAS. F. CARROLL
State Superintendent of
Public Instruction

CFC/mgc
CC: Dr. J. L. Pierce
Division of School Planning

March 28, 1966

Dr. J. L. Pierce, Director
Division of School Planning
State Department of Public Instruction
Raleigh, North Carolina

Dear Dr. Pierce:

The Halifax County Board of Education has requested me to express to you its appreciation for arranging another hearing before the State Review Panel on March 31, 1966.

As a result of recent developments in regard to the compliance with the new guidelines for desegregation of schools, it has been agreed that the hearing should be delayed. Our Board of Education does request that an appearance be permitted at a later date if it should appear to be desirable.

Thank you.

Sincerely yours,

W. HENRY OVERMAN
Superintendent
Halifax County Schools

WHO:fg

March 28, 1966

Dr. Charles F. Carroll
State Superintendent of Public Instruction
Raleigh, North Carolina

Dear Dr. Carroll:

The Halifax County Board of Education has requested that I express to you its appreciation for your willingness to arrange an appearance before the Building Committee of the State Board of Education on April 7.

As a result of recent developments in regard to the compliance with the new guidelines for desegregation of schools, it has been agreed that an appearance before the Building Committee should be delayed. Our Board of Education does request that an appearance be permitted at a later date if it should appear to be desirable.

With all good wishes, I am,

Sincerely yours,

W. HENRY OVERMAN
Superintendent
Halifax County Schools

WHO:fg

HALIFAX COUNTY SCHOOLS

Halifax, N. C.

July 2, 1968

BOARD REQUESTS SCHOOL SURVEY

The Halifax County Board of Education in its regular meeting on Monday, July 1, 1968, voted to ask the Division of School Planning of the State Department of Public Instruction to send a survey team into Halifax County to make a study of the County schools. In view of recent court decisions and court actions being brought against surrounding school systems due to the failure of the school systems to comply with the Civil Rights Act of 1964, the Board felt that a study of the Halifax County Schools was necessary. This study will be concerned with determining the necessary steps to be taken in order to remain in compliance with the Civil Rights Act of 1964 and to make recommendations concerning the most effective organizational patterns for the County schools in order "to insure the best education possible for the children." This study by the State Department of Public Instruction will be made as soon as feasible.

Other main items of business taken by the Board of Education included the following:

- Approved an Elementary and Secondary Education Act, Title I, budget for the expenditure of $962,068.00 for the 1968-69 fiscal year.

- Employed the following teachers: Jean M. McLawhorn, Scotland Neck School; Harry A. Lloyd, Jr., and Dorothy Marie Holmes, Inborden High School;* Grady W. Tunstall, Lessie May King, David C. Birdsong, and Mary Ann Bass, William R. Davie School; Harry James Ghee, Brawley School; Eva Doretta Silver, Eastman School, and * Mildred Carole Bobbitt, Inborden High School.

- Voted to accept the low bid in the amount of $2,135.00 from Carolina Well and Pump Company of Sanford, N. C., to drill a well on the site of the proposed Central Administrative Office Building.
- Set a special Board Meeting on July 9, at 3:00 p.m. to open bids for the construction of the new Central Administrative Office Building.
- Assigned the 446 teachers and principals to be employed by the Halifax County Schools in 1968-69 to the various schools in the County.
- Approved six requests for change of school assignment.

[Scotland Neck Commonwealth 8/9/68]

COUNTY ORDERED TO END DUAL SCHOOL SYSTEM

Given Ten-Day Period To Submit Plan

HALIFAX—The Halifax County Board of Education has been given a ten-day period in which to submit a plan to the U. S. Department of Justice for the elimination of the dual school system in the county school unit.

A letter from Assistant Attorney General Stephen J. Pollak, dated July 27, stated that he had received complaints from Negro parents in Halifax County that "their school-age children are being denied their constitutional rights" because of the operation of a dual school system. Pollak wrote that the Department of Justice had investigated the operation of the Halifax County Schools and had reached a "conclusion that insufficient steps have been taken by the school board to disestablish the dual system of schools in the Halifax County Administrative Unit."

After a lengthy discussion of this latest directive, the county board of education, at its regular meeting Monday, agreed to propose a tentative plan to the Department of Justice. Details of this plan are incomplete and cannot be released until another conference with Justice Department officials can be obtained.

Pollack said in his letter that under the "freedom-of-choice" plan of school desegregation which the school board has adopted, all of the white children have remained in previously all-white schools. "Approximately 8,085 Negro students will be assigned for the 1968-69 school year to schools where no white child is assigned," the letter stated. "The board anticipates the assigning of 395 Negro students, less than five per cent of the total number of Negro students, to schools that are traditionally white. Since there is little residential segregation in the school district, there are reasonably available otherways, such as unitary geographic attendance zoning or some form of grade reorganization or consolidation, promising speedier and more effective conversion to a unitary system. Consequently, under the recent decision of the United States

Supreme Court in the case of Green v. School Board of New Kent County, Virginia, continued adherence to a freedom of choice plan of desegregation in the Halifax County Administrative Unit is constitutionally impermissible.

"In the matter of teacher assignments, your system will have assigned nearly 410 teachers, both white and Negro, to schools where all the other teachers are of the same race, while assigning 17 teachers to schools where their race is in the minority. Current judicial standards require that the racial identification of schools by the composition of their faculties be promptly disestablished."

At this week's meeting of the board of education, a delegation composed of C. M. Moore, Jr., board chairman, Claude Kitchin Josey, the board's attorney, Schools Superintendent W. Henry Overman, and Associate Superintendent Ben F. Currin gave a report on a conference held August 1 in Washington, D. C. with officials of the Justice Department. This conference was for the purpose of finding out what type of plan would be acceptable to the Justice Department and the length of time that would be granted for the complete elimination of the dual school system.

The delegates reported that the Justice Department officials wanted "substantial progress during the 1968-69 school year and a unitary school system by the next school year, 1969-70."

In other business, the board of education:

—Approved a budget in the amount of $30,600 for the operation of a centralized lunchroom program for the 1968-69 school year and adopted a salary schedule for lunchroom employees.

—Employed 23 new teachers for 1968-69, leaving 31 additional teachers to be employed.

[Scotland Neck Commonwealth 8/23/68]

OVER 2,000 STUDENTS WILL REPORT TO SCHOOL

More than 2,000 students will report to classes Wednesday, Aug. 28, when the new term begins at Scotland Neck and Brawley school systems

This year, for the first time in its history, Scotland Neck School has a total enrollment above 1000. Principal Donald Edwards reported 1026 enrolled, with 419 in the elementary grades, 298 in junior high and 309 in high school. Transfer of approximately 156 seventh and eighth graders from Brawley to junior high accounts for a big jump in the enrollment.

Brawley has an enrollment of about 1100. The high school has 727, grades 1-6 have 373. The overall total is expected to increase with the enrollment of a number of "freedom of choice" students from other schools and students returning home after spending the summer up north.

Scotland Neck School has some 46 faculty members, Brawley about 40.

Schools will operate for a half-day Wednesday, beginning at 8:30 a.m. Pupils will report for registration, assignments, issuance of books and payment of fees. School buses will be operating Wednesday.

The first full day of school will be Thursday, Aug. 29.

Principals and teachers will report to Enfield Graded School in Enfield on Tuesday, Aug. 27, for a county-wide meeting beginning at 8:15 a.m. and closing at approximately 10 a.m. The remainder of this day will be spent by teachers and principals at work in their respective schools.

Sept. 2 will be observed as Labor Day Holiday for all students and school personnel.

Students are asked to bring the necessary money to pay fees on the first day of school. Fees are: General instructional supplies and materials, $2.00; typing, $5.00; vocational home economics, $2.00; vocational agriculture, $3.00. An insurance policy is available at a cost of $1.50 per student.

Parents and pupils should watch for announcements from principals for further information pertaining to school opening at their respective schools.

[Scotland Neck Commonwealth 8/23/68]

TRANSFERS DOUBLE SIZE OF JR. HIGH

The size of Scotland Neck Junior High School's student body will just about double this fall when Brawley School's seventh and eighth grades are transferred there.

Transfer of these two grades is part of a plan adopted by the Halifax County Board of Education and approved by the U. S. Department of Justice for "disestablishing the dual school system" in the county. Similar action is being taken at three other schools in the county unit.

I. O. Swain, who taught seventh grade at Brawley for the past 16 years, is the new building principal at Scotland Neck Jr. High. Swain, 49, graduated from Elizabeth City State Teachers College in 1940.

Along with Swain, five other teachers are being transferred from Brawley. The names of these faculty members were not available at this writing, however, since several have been out of town for the summer and have not yet been officially notified by the county.

Junior High will have a total enrollment of 298, according to figures released by Donald Edwards, principal of Scotland Neck School System. There will be approximately 143 seventh graders and 155 eighth graders.

Approximately 156 students are being sent there from Brawley. Junior High will have about 142 white students. Edwards said approximate figures show 68 Negro pupils will be in the seventh grade, 79 in the eighth. These last figures do not add up exactly with the number reportedly being transferred and it should be noted again that they are approximate.

Apparently as a result of this latest ruling, there has been a noticeable increase in the number of students applying for enrollment at private schools. C. C. Turner, Jr., of Scotland Neck, chairman of the board of trustees at Enfield Academy in Whitakers, reported that the academy was expecting an enrollment of about 170-175 this term, which would double the size of the 1967-68 student body.

This sudden increase in the number of students attending S.N. Jr. High has, of course, made more classroom space a necessity and seven mobile classrooms (six from Brawley, one from the Scotland Neck School grounds on Main Street) have been moved there.

Reportedly, there has been some concern as to whether toilet facilities at the junior high school are adequate, but Edwards said these meet minimum state requirements and the county administrative unit is planning to have them enlarged.

[Scotland Neck Commonwealth 9/13/68]

PTA GIVES SUPPORT TO BOARD OF EDUCATION

Approach To Ending Dual School System Explained

by Harold Stephens

The Parent-Teacher Association of Scotland Neck Schools went on record Thursday night of last week as supporting the Halifax County Board of Education in its approach to elimination of the dual school system in the county unit.

This action came at the end of the PTA's first meeting of the new school term. Just before Dr. Weldon Estes, PTA president, rapped down the gavel to end the session of more than an hour and a half, W. D. Holloman, Jr., a past president, made the motion for the PTA to take an official stand in support of the Board of Education's efforts to comply with an order from the U.S. Department of Justice to "disestablish" the dual school system.

The motion was quickely seconded and received near-unanimous approval from the crowd estimated at 300 to 350 people. there was one "no."

Advance publicity and widespread interest in the school issue brought the large crowd to the auditorium. The meeting was orderly, calm and no angry words were hurled. Anybody who came looking for a fight went away disappointed.

Dr. Estes, who was the first of several speakers, said the meeting was being held "not to discuss the merit of

the decrees we have received (from the Federal Government, concerning school integration), but to see how we can better implement these decrees."

Other speakers, in the order of their presentations, were: Henry Lee Harrison, vice chairman of the County Board of Education; W. Henry Overman, superintendent of Halifax County Schools; Claude Kitchin Josey, attorney for the Board of Education; Ben F. Currin, associate superintendent of schools; Ferd L. Harrison, Mayor of Scotland Neck, C. Hoke Leggett, member of the Board of Education.

Henry Lee Harrison explained that the Justice Department in July had ordered the Board of Education to submit a plan within ten days for integration of the schools. He said the speakers appearing after him on the PTA program were there to give a "factual account" of what had been done and what was planned for county schools.

Overman referred to the Supreme Court decision of 1954, declaring that racial segregation in schools was unconstitutional, and he said not much had been done about it until 1964, the year integration began in Halifax County schools. He pointed out that "freedom of choice" for student enrollment was used until May of this year when three separate district court decisions declared it unconstitutional unless it resulted in elimination of the dual school system.

A representative of the Justice Department informed county school officials in July of complaints about racial imbalance in the schools and the county was subsequently ordered to submit a compliance plan for creation for a unitary school system. School officials conferred with the Justice Department in August and submitted a compliance plan calling for the transfer of about 500 pupils, additional integration in 1969-70 and completely disestablishment of the dual school system by 1969-70.

A survey team, Overman said, was presently working in the county to determine the best plan to meet the needs of all students and to create a unitary school system. The survey, he said, should be completed this month.

Josey outlined two different means of enforcement of the Civil Rights Act of 1964. He said the only conse-

quence of non-compliance with guidelines from the Department of Health, Education, and Welfare was loss of funds, but under Title IV of the Rights Act the Justice Department could investigate complaints and bring court proceedings against a school board.

"Some people," Josey said, "say just forget the darn funds" (to avoid school integration), but that won't work. The school board has no choice, it's got to comply with the law. We are not in compliance and have no legal defense."

The school board, he added, would have to integrate the schools "or go to jail."

Letting the federal government bring court action against the board of education, he said, would have been the easy way out, would have "gotten the monkey off their back," He said it was his opinion, however, that "we are in a better position (through the education board's approach to the problem) for Negro and White leaders to come up with a solution.

"This school board has a little flexibility under the law to be in a better position than those who took no action until court orders were brought against them. Under the law, I'm convinced that if the people will stick with the school board another year or two, this thing can be worked out."

Currin produced statistics showing that 870 Negroes were attending predominately white schools in the county unit. This figured out at 12 per cent of the Negro students in the county attending white schools. Twenty per-cent of the student body of Scotland Neck Schools was Negro, he said.

He reported that 36 teachers had crossed racial lines in county schools and five of them were white teachers in Negro schools.

Currin commended the people of Halifax County for their calmness in compliance with the law. "This year was as smooth a school opening as we've had," he said, and he complimented the school board members, principals, community leaders and maintenance workers for doing a lot of work in a hurry to get the schools ready.

"Without your continued support," Currin concluded, "we will bring about the prophecy of doom many have forseen. We must put the children first."

Mayor Harrison's talk was on the effect of school integration on the community and industrial development. Next year," he began, "will try our patience and judgment and the way our people respond will determine the future of this community."

Industry, he said, was vitally interested in how a town reacted to social problems, expected schools to prepare students for jobs, and was willing to share the tax burden if the schools provided the needed programs.

"This tells us that the public school system is a 'must' if we are to continue our industrial growth," the mayor said. I'm here to ask the people of Scotland Neck and surrounding areas to support our leaders in working out the programs of the future. I have taken pride in the racial relationship of this community. Give the support that you can in solving our problems."

Leggett said part of the work being done by the school survey team had been completed and "it is expected from the results of this survey that we might know how to prepare for the future."

He said the county had about $950,000 in state funds for school building construction and also that future school integration would probably mean a combination of geographic zoning and pairing of schools.

"All we ask is your cooperation," Leggett said, "and if we are guided by that Supreme Being in whom we place confidence, we can solve our problems."

When the speakers had finished, Henry Lee Harrison presided over a short question-and-answer period.

Mrs. Mamie Brooks, a Negro, referred to the transferral of Negro students to Scotland Neck Junior High this year and asked why no white students had been sent to Brawley School. Harrison said "We have moved a complete unit and this was our plan (as accepted by the Justice Department). Next year's plan will have to do away with the dual school system."

Josey said his interpretation of the law was that no child could be forced to go to a school where the student body was mainly of another race.

After her question was answered, Mrs. Brooks said she was not talking about "a trivial issue like race" but was interested in providing more room, better textbooks and other educational benefits for children.

Tommy Allsbrook, a town commissioner, asked Currin where he got his statistics, adding that his daughter was attending Scotland Neck School in a class where Negroes outnumbered whites 18 to five. Currin said that 20 per cent figure applied to the total number of Negroes attending the school, not just to one class.

W. J. (Bill) Murray asked if students were placed in classes according to their ability and, if so, would this continue. Currin said this varied from school to school and there was no definite policy about it in the county unit.

[Scotland Neck Commonwealth 10/11/68]

SCHOOL OFFICIALS REPORT ON EXTENT OF INTEGRATION IN HALIFAX COUNTY SYSTEM

A total of 750 Negro pupils and 70 Indian pupils are attending the predominatly white schools of Halifax County, it was reported to the Halifax County Board of Education at its regular monthly meeting which was held Monday at Halifax.

The report was made by Ben F. Currin, assistant superintendent, and he used figures compiled after the first ten days of school in the 1968-69 session. In addition he said there were 33 teachers teaching in schools where their race was in the minority. On the basis of this report it was indicated that the Halifax County School system had been 7.5 percent integrated. This is approximately twice as much as last year, and the U. S. Department of Justice has given the school board until the 1969-1970 term to complete integration of the 10,928 pupils, most of whom are Negroes.

W. Henry Overman, County Superintendent, reported there were 10,928 pupils enrolled in the county school system at the end of the first two weeks of school. Com-

pared with the same time last year this amounted to a 98 pupil increase in the high schools and 357-pupil decrease in the elementary schools.

During the morning session the Board heard a number of reports from different departments of the school system. Officials of the Halifax County Technical Institute outlined courses which were being offered there and the student enrollment of the institution by classifications. Charles C. Davis, architect, presented and the Board of Education approved the preliminary drawings for construction of a cafeteria at Inborden School in Enfield.

Other action of the Board of Education included the following:

Authorized a survey through the school children to determine adult interest in extension classes to be offered by the Halifax County Technical Institute.

Superintendent Overman announced that October 24, 1968, at 12:00 noon would be the date and time for the sale of the Hobgood School property.

Employed six teachers for various schools in the County and reassigned 9 pupils to the schools requested.

Appointed board members C. M. Moore, Jr., Henry L. Harrison, A. G. Wilcox, Jr., and J. D. Whitehead as delegates to the State School Boards Association Meeting to be held in Chapel Hill on October 24.

The Board of Education reviewed and distributed the audit reports for individual schools recently completed by Riddick and Urquhart, CPA firm.

Accepted a low bid in the amount of $1,132.20 for lunchroom tables for the McIver lunchroom.

[Scotland Neck Commonwealth—Friday, October 11, 1968]

EDITORIALS . . . .

A Serious Situation For The School System

The enormous task which faces the County Board of Education during the next several months is emphasized by a report which was made this week to the board by Ben F. Currin, Associate Superintendent of the County Schools; and also indicates the degree to which the U.S. Justice Department officials have displayed an unusual lack of common sense in orders issued to local school boards.

Mr. Currin's report showed that 10,928 pupils were enrolled in the county school system as of the end of the first two weeks of school. Of these 810 Negro students were attending the White schools, which is about twice as many as last year but still leaves more than 10,000 students who have not been integrated in accordance with directives of the Health, Education and Welfare Department at Washington.

The U. S. Department of Justice has ordered the county school system to integrate all pupils in the local schools of the county by the start of the 1969-1970 school term, which means that some kind of arrangements will have to be made to accommodate the switching of a large number of the 10,000 students in the next year. The Department of Justice ignored the fact that the schools had been proceeding under the "freedom of choice" plans for the past three or four years and under this plan less than five percent of the students and their parents had indicated that they desired to change from all white or all colored schools to the mixed groups. But freedom of choice was struck down by the U. S. Supreme Court on the ground that it was not accomplishing integration as quickly as was deemed desirable. The Department of Justice ordered substantial integration this year and complete integration by next year, and apparently the school system will face a cut off of funds and possible prosecu-

tion of school officials unless the order is carried out to the letter, or is amended during the next few months.

* * * *

The Halifax County school system is completely without funds or facilities with which to make such a drastic change within a year unless the welfare of the students educationally is neglected. Buildings are not available to complete the switchover, and other facilities are lacking in some schools, such as libraries, classrooms, cafeterias and equipment.

A comparatively short length of time has been granted in which to evaluate and classify the students according to their ability, and if the switchover is completed there will be little that the school officials can do except to transfer students en masse from one school to another and vice versa, that is from black to white and white to black, without taking into consideration the ability of the students to keep up with the mixed classes to which they may be assigned. Although Congress this past week more or less tempered the decision of HEW by ordering that action not be taken to correct imbalance of population but simply to facilitate integration, it still left the final decisions and guidelines in the hands of HEW, and no one expects that group to alter its previous decisions unless they are forced to do so by court action. A chaotic condition in the Halifax School system could easily be created next fall with harm being done to both White and Negro children, but more so to the Negro children in whose behalf it is said the wholesale change orders are being issued on the allegation that their rights have been neglected.

* * * *

The attitude of the federal government in these matters seems to ignore entirely the fact that schools have been created for educational purposes and not for integration purposes. Federal authorities are intent on accomplishing certain things in the South by abolishing freedom of choice and certain things in the North by insisting on bussing of school children many miles in order to mix them up racially, and in the meantime the education of the children is a matter of secondary consideration.

In the meantime the school folks are practically helpless in the matter because they are under orders from the Justice Department or orders from the District Courts, in which many federal judges have shown a serious lack of understanding of the situation. When the United States Supreme Court decreed that a segregated school system was unconstitutional and that it should be abolished, it did not decree that education should be sacrified on the altar of integration, but that seems to be the interpretation which has been placed on the Supreme Court decision and the Civil Rights Act of 1964 by those in authority at Washington, D. C.

The only remedy that we can suggest in an effort to gain sufficient time for an orderly compliance is for the State School Board and the state superintendent to request a hearing on a statewide basis before the federal court. Such a plan was carried out in some sections of South Carolina and the court ruled in favor of the school system, allowing more time for changes.

[Raleigh News & Observer 1/20/69]

SCOTLAND NECK CONSIDERS SEPARATE SCHOOL SYSTEM

By Marshall Lancaster
Staff Writer

SCOTLAND NECK—A group of Scotland Neck townspeople will ask the General Assembly for authority to remove their public schools from the Halifax County school system.

State Rep. Thorne Gregory said he will introduce a bill in the House this week enabling Scotland Neck residents to vote on the proposed school system division and the group will meet today in Raleigh with State Supt. of Public Instruction Craig Phillips.

The proposed split is in opposition to a trend in North Carolina toward consolidation of city and county school districts.

If it is approved, Scotland Neck will become one of the State's smallest school districts at a time when school units are growing larger and fewer.

The apparent spark for the proposal is the U.S. Office of Education's desegregation policy.

Integration Planned

Macon Moore of Littleton, chairman of the Halifax County Board of Education, said that the county system, partially desegregated last year by pairing the sixth and seventh grades from several schools, will have to be "totally integrated" next September in order to continue to receive federal aid.

"That is what we promised the Justice Department," he said. "I don't think we will, but that's what we promised."

Moore explained that Negro students outnumber whites by roughly four to one in the 10,000-pupil county system. In Scotland Neck, however, he said Negro pupils constitute only 18 percent of the total enrollment.

By leaving the Halifax County system, Moore said, Scotland Neck could insure that the ratio of Negro to white pupils would remain comparatively low.

"I think it would be a good think for the people of Scotland Neck," he said.

Private Schools

Moore regards the proposal as an alternative to the private schools for white students which have been established in Eastern North Carolina during the past five years.

"We're losing white children every day who apply for private schools," he said. "I'm sure next year we would lose a tremendous number."

Scotland Neck attorney C. H. Josey, counsel to the Halifax County school board, said he was contacted unofficially by the citizens' group several weeks ago.

"They don't think private schools are the answer," he related. Josey estimated that between 900 and 1,000 pupils would attend a separate Scotland Neck school system.

Rep. Gregory said the proposed division has been discussed with the State attorney general's staff and "found completely legal."

He said the system's purpose would be "to give the children a better education."

"Anyone from outside in the county could attend if he paid a tuition fee," Gregory said. "We know this is opposite to the current trend, but we've given it exhaustive investigation."

Department of Public Instruction statistics show that in 1967, North Carolina had 169 administrative school units. In 1968, that figure had fallen to 157.

Gregory said his bill, if passed, would also permit Scotland Neck resident to vote on a supplemental school tax—not to exceed 50 cents on each $100 valuation of assessed property.

Scotland Neck Mayor Ferd L. Harrison presented the plan to the town's commissioners at a recent meeting.

He said that while he does not favor or oppose the plan, he felt that the commissioners should be aware of it. They would appoint the initial school board if the division were approved.

[Raleigh News & Observer January 21, 1969]

HALIFAX SCHOOL SPLIT DISCUSSED

By Judy Bolch
Staff Writer

A Scotland Neck plan to remove its schools from the Halifax County school system apparently would be acceptable to federal education officials but it is contrary to State Board of Education policy.

Dr. Craig Phillips, State superintendent of public instruction, said after meeting with a Scotland Neck delegation here Monday that he "made it clear that State Board of Education practice and policy have been moving in an opposite direction from this."

State Rep. Thorne Gregory plans to introduce a bill later this week in the House of Representatives which would enable Scotland Neck residents to vote on the proposed school system division. The Scotland Neck system would have a smaller percentage of Negroes than the county unit has.

Phillips said that if the General Assembly acts favorably on the bill, State Board of Education approval is not required.

Advisory Capacity

He said he was acting only in an advisory capacity in his talk with the Scotland Neck delegation.

Phillips declined to name the people who approached him with the idea. He said he did not feel he should make their names public without permission since they did not represent a formal group.

Phillips said he hoped that "good leadership," such as the people involved, should "be able to find a better solution" to their problems.

No separation of units has been approved by the State board in modern history, Phillips pointed out. The board and the Governor's Study Commission on the Public Schools have supported the theory that a larger school unit is able to offer a better and more varied program. Consolidation of units has been the trend.

The Halifax County system, which has roughly four Negroes to one white in the 10,000 student enrollment, is scheduled to become totally integrated next September in order to continue to receive federal aid. In Scotland Neck alone, however, Negroes constitute only 18 per cent of the school population.

Dr. Eloise Severinson, a spokesman for the Charlottesville, Va., regional office of the U.S. Department of Health, Education and Welfare, said Monday that a splinter Scotland Neck system could continue to receive federal aid providing it adopted an approved plan for schooling the Negroes who would be living in the new unit.

"What communities do about the organization of the public school system is their own business," Dr. Severinson said in a telephone interview.

HEW is concerned only that the Negroes involved in any system are treated fairly, she said.

Still Integrated

"In effect, they would still have an integrated system if the students in the system were permitted to attend any schools and take an equal part," Dr. Severinson said.

She added that she personally always worries that smaller units will have financial troubles.

According to the State Department of Public Instruction, the total Halifax County unit is now receiving over $1.36 million a year in federal funds.

If the Scotland Neck split were approved, the system would have between 900 and 1,000 students, making it one of the State's smallest.

Rep. Gregory has said any student in the county could attend the city school unit if he paid a tuition fee.

He also has said the bill's purpose would be to give the children "a better education." It would permit Scotland Neck to vote on a supplementary school tax of up to 50 cents per $100 valuation of property.

[Raleigh News & Observer Jan. 26, 1969]

NOT IMMUTABLE

At the request of a group of Scotland Neck people, Halifax Rep. Thorne Gregory has introduced "local legislation" to remove the town from the county school system. Negroes far outnumber whites in the county and the creation of a second, smaller school district would provide for many whites an alternative to planned integration of the present countywide system.

The proportions of blacks to whites in this county is unusual. Other factors may argue for a unique approach to effecting racial change there. As the proposed solution moves through the legislature for perfunctory approval, however, it should be obvious that concepts of government close to the people and majority rule are not immutable ideals.

[Raleigh News Observer 2/1/69]

HOUSE OK's SCHOOL BILL FOR HALIFAX

RALEIGH (AP)—The North Carolina House Wednesday passed and sent to the Senate a bill to permit the people of Scotland Neck to create their own school unit.

The House voted 86-29 to approve on third reading the bill that would take Scotland Neck out of the Halifax County School unit. The bill passed second reading Tuesday.

Rep. Henry Frye, D-Guilford, the only Negro in the General Assembly spoke against the bills saying it would "be going in wrong direction."

He noted that creating a new school unit runs contrary to recommendations of the Governor's Study Commission for the Public Schools and to policy of the state Board of Education. The measure would take Scotland Neck from a system in which Negroes outnumber whites nearly three to one and place it in a system where whites outnumber Negroes nearly four to one.

Frye urged the House to seek "a long range solution" and seek merger of Halifax County, Roanoke Rapids and Weldon as well as the Scotland Neck schools into a single system.

Speaking for the bill was Rep. Daniel Lilley, D-Lenoir. He said the bill should be passed because the people of Scotland Neck are "willing to pay for better schools for their children."

[News and Observer 2/6/69]

SCOTLAND NECK SCHOOL BILL CLEARS HOUSE COMMITTEE

By Judy Bolch
Staff Writer

A proposal to remove the Scotland Neck schools from the Halifax County school system came out of the House Education Committee Wednesday wearing a "without prejudice" label.

This means the committee neither approved nor disapproved the bill and sent it to the House without a recommendation.

The bill, sponsored by Rep. Thorne Gregory (D-Halifax), is considered a landmark measure which could have a Statewide effect on concepts relating to school consolidation, financing and, indirectly, integration.

The measure was re-referred to the Finance Committee because it involves a vote on a school supplement tax.

Proponents of the bill told the education committee that they simply want better schools for Scotland Neck children. They said the people of Scotland Neck are likely to approve a school supplement tax to raise the standards, but a countywide tax would be rejected at the polls.

Scotland Neck citizens propose to set up their own public school unit. It would have about 736 white and 193 Negro students. The Halifax County unit, including Scotland Neck pupils, now has 8,169 Negroes and 2,357 whites.

State Superintendent of Public Instruction Dr. Craig Phillips questioned the effect the bill might have for the rest of the State.

He told the committee the State Board of Education policy favors consolidation of school systems where possible because larger systems are more economical and efficient. He pointed out that the Governor's Study Commission on the Public Schools also recommends consolida-

tion, and said the Scotland Neck proposal is contrary to these concepts.

Dr. Phillips also said that it would cost $22,000 in State funds over a two-year period to finance a new administrative office for Scotland Neck.

Removal of the Scotland Neck students would also have an "impact" on the county students, Dr. Phillips contended. He pointed out that the racial imbalance would be further increased and that the urban leadership would be disassociated from the county schools.

Kitchin Josey, spokesman for the Scotland Neck citizens, said county standards are "far below" those desired and said the tax supplement would enable Scotland Neck to hire and keep good teachers.

Josey denied that racial factors were involved. He said: "There is no way for us to keep our standards up unless we follow the Civil Rights Act." All Scotland Neck students, white and black, would go to the same schools under the new plan, he said, and this would be a "pure unitarian system."

"We feel we know what is best for us in Halifax County," Rep. Gregory said, adding that he knew of no opposition locally to the change.

Rep. Henry Frye (D-Guilford), a Negro, asked if a serious effort to consolidate the Halifax County schools with those of Roanoke Rapids and Weldon, two towns in the county, had been made. The two city units already charge supplementary taxes.

Henry L. Harrison, former member of the Halifax School Board, told Frye that over half the county's tax valuation is in those two towns and that the county itself is 60 miles wide, two factors which have discouraged the richer units from consolidating with the county.

Frye later spoke against the proposal calling it a short-range approach to the problem of better schools and said he was afraid this would start an unfortunate trend. He said that it would be better to "look way down the road" and try to get county and city schools in the county together.

The bill calls for the two county schools in Scotland Neck to be turned over to the city. Several committee

members questioned the legality of giving one government's property to another.

If the bill is approved by the legislature, the people of Scotland Neck would vote on whether to establish the separate public system and to establish a school supplement tax of up to 50 cents on each $100 of property valuation. The new school board would decide the exact amount of the tax.

About a dozen Scotland Neck residents were on hand for the committee hearing.

[News and Observer]
Scotland Neck Issue

SCHOOL BILL CLEARS HURDLE

By JUDY BOLCH
Staff Writer

A local bill which has become a hot issue in the General Assembly passed a major test in the House Tuesday as that body voted 82 to 27 to permit Scotland Neck to create its own city school system.

The proposal to remove the Scotland Neck schools from the Halifax County system is considered to have statewide implications for future decisions on school consolidation, financing and racial balance, and the bill evoked spirited debate.

A third reading for the measure is expected in the House today and if it passes that test, as is likely, it will go to the Senate for consideration.

Rep. Thorne Gregory (D-Halifax) led the fight for the bill, which he introduced. He argued that the measure, which would allow Scotland Neck citizens to vote on the proposal and on a supplementary tax for the new school system, should be passed because "the people of Scotland Neck know what's best for us."

Gregory said the bill would not set a precedent because Halifax already has city school units in Roanoke Rapids and Weldon. He said while consolidation of school units,

considered vital by the State Board of Education, might not be bad, it wasn't the best thing for Scotland Neck.

Speaking out strongly against the bill were House Education Committee Chairman, Graham Tart (D-Sampson), Wade H. Penny, Jr. (D-Durham), James C. Johnson, Jr. (R-Cabbarus) and Charles W. Phillips (D-Guilford).

The "potential harm almost staggers the imagination," Penny said.

He pointed out that it would cost $22,000 in State funds to form a new administrative unit. Penny attempted to re-refer the bill to the Appropriations Committee since a State allocation would be needed, but his motion was defeated.

Can Vote Tax

Present law permits special tax districts to be set up, Penny said, and if Scotland Neck wanted to do so, it could vote a supplementary school tax and still be part of the Halifax County unit.

There are 376 towns without their own school systems, Penny said, and 12 already inquired of State officials how they can go about setting up units if the Scotland Neck proposal passes.

He predicted a flood of such separations would result, in direct contradiction to State Board of Education policy and the Governor's Study Commission recommendations.

"Some of you say you are going to vote for it (the bill) because you don't want local bills tampered with," Johnson said, "But some of you are going to vote against your conscience and what you know is right."

Johnson asked the House to remember the students who'll be left in the county system. "What are we going to do about those kids?" he asked.

Removal Said Harmful

Opponents of the bill had said that removal of more tax property from the county system, already deprived of the property values of the county's two larger towns, would be harmful.

Phillips asked what purpose study commissions, such as the one on the public schools, served if "when they come back with recommendations, we tell them they don't know what they are talking about."

Both the State board and the study commission recommended larger school units and consolidation of units as more economical and efficient ways to better education facilities.

Intermingled with the factors legislative tradition that local bills are not tampered with, Rep. Perry Martin (D-Northhampton) said that defeat of the bill would be a "personal affront to this distinguished gentleman from Halifax."

Martin said that all House members from the Halifax area were in support of the measure.

"There's actually no reasonable basis" on which Scotland Neck should be treated differently from other towns permitted to have their own school units, he said.

Another supporter, Rep. Hugh Beam (D-McDowell), a former school teacher and principal, said localities with "incentive and initiative" should be permitted to move forward and questioned the value of across-the-board consolidation.

Gregory told the House that he had not heard of any opposition to the bill in his area.

The Scotland Neck Community League, however, announced plans last week to fight the referendum when it comes before the people. The League, a race relations group, said it thought it was too late to stop the bill before the Legislature.

The racial issue was only alluded to once in passing during the debate Tuesday, but the racial question is involved, observers say.

There is a four to one ratio of Negroes in the Halifax County, school system. In the proposed Scotland Neck unit, Negroes would make up only 18 per cent of the school population.

On a roll call vote, Reps. Sam Johnson and Archie McMillan of the Wake delegation voted present. Rep. Howard Twiggs of Wake voted against the measure and Rep. H. W. Taylor voted for it.

[Raleigh News & Observer, 2/12/69]

HALIFAX ANNOUNCES SCHOOL PLAN

HALIFAX—The Halifax County Board of Education announced a desegregation plan Tuesday affecting its 18 public schools, four of which are predominantly white and 14 all-Negro.

C. M. Moore Jr., chairman, said the plan resulted from demands by the U.S. Department of Justice in July, 1968, that a dual system be eliminated and that the Halifax schools be in full compliance with the Civil Rights Act of 1964 at the beginning of the 1969-70 school year.

Halifax was ordered to submit its plan to the Department of Justice not later than March 15, 1969.

The plan specifies that any student assigned to a school where there is less than 15 per cent of his race or less than 15 per cent of a race different from his own, may be assigned to a school where such a situation does not exist.

A student desiring such a transfer must make a "timely-request" and furnish his own transportation to the school to which he transfers.

Staff and faculty, according to the plan, shall be assigned as far as possible to constitute the same ratio between white and Negro races as exists in student body.

The plan further states, however, that no school faculty shall be comprised of less than 12 per cent of either Negro or white.

The dual bus system now used to transport students to and from school will be eliminated. The buses will be operated without regard to race.

There are approximately 10,655 students in the Halifax school system, including 8,196 Negro students, 2,357 whites and 102 Indian students. There are 447 teachers, including 322 Negro, 123 white and two Indian.

[News & Observer, 2/14/69]

RUSH TO THE REAR

One of the most astute comments so far on the Scotland Neck school separation movement came from a local foe who called it "a step backward when we should be going forward."

Instead of striving to strengthen all Halifax County schools through consolidation, Scotland Neck people supporting an independent school unit for their town limit a desire for better education to municipal boundaries. They want town money confined to town schools. Presumably, the rest of Halifax could just go begging.

Shrewd strategists are at work arguing through the General Assembly the bill permitting a local referendum on the separate unit idea. They claim that there's no hope for passage of a countywide school tax, while Scotland Neck people probably would support a town levy. And as Rep. Thorne Gregory said on behalf of the referendum bill he introduced, "the people of Scotland Neck know what's best for us."

What Scotland Neck separatists obviously believe best for them is an educational island dominated by whites. Statistics make this clear. The Halifax County school system now has about 8,100 Negroes and 2,300 whites; a Scotland Neck unit would have some 736 whites and 193 Negroes. The county school system must fully integrate by September. Undoubtedly, Scotland Neck would prefer to do its own integrating. By creating a sharper racial imbalance in municipal schools, the town would promote a sharper imbalance—in reverse—out in the county.

The forgotten ones in this matter are the children who would remain in the Halifax County school system. If Scotland Neck pulls out, county schools will be left with just 37 per cent of Halifax's taxable property from which to draw support for educating roughly 67 per cent of Halifax children. The State, furthermore, would have to subsidize this inequity by footing a $22,000 bill for Scotland Neck's school administrative offices.

The separation bill got through the House on Wednesday, aided by an incredible argument that since it was local legislation, balking at it would be a personal insult to the sponsor. Surely the Senate will display a more responsible concern over this measure, which is local in name only and far removed from the usual pay hike or dog tax proposal. It suggests a precedent which truly would be a rush to the rear, and North Carolina could pay for it with inferior county schools and deteriorating race relations.

[Raleigh News & Observer, February 22, 1969]

NEW STATE POLICY?

If the State Senate approves the Scotland Neck school bill, it will do more than separate the present Halifax County School System into two units—with most of the county's white pupils in a new Scotland Neck unit. Indisputably the Senate also will set a new State policy contrary to the desirable trend toward consolidation and contrary to the spirit if not the letter of federal law.

This is no simple matter of acceding to a local government request, of letting the people involved have the kind of school structure they want. The State legislature will be giving official endorsement and $22,000 in State funds for the fragmentation of a school system now so small it is lacking in some aspects of educational soundness and efficiency.

The example will not be lost on other school systems confronted with similar racial problems. They will seek —and how can the legislature deny them?—the same course of least resistance, the same creation of new school units with less racial accommodation. And in each instance the State will be footing the bill for new administrative costs and putting its stamp of acceptance on the educational inefficiency and racial ill will created.

This would be new State policy of using the legislature to evade national policy. If it failed—if the courts struck it down—it would create new and unnecessary

enmity within our governmental systems. If it succeeded, it would encourage more racial apartness and distrust. Negro North Carolinians would be given an object lesson in White Power, and a mocking example of Law and Order, with Justice.

The Halifax County school system may have special problems. The legislature could provide the education tools and money to help meet them. It still could postpone action until it researched such possible alternatives. The Scotland Neck school bill is a change in State policy, with far reaching consequences. It ought not to be enacted without further search for a wiser, less harmful answer to the concerns of Scotland Neck people.

APPENDIX

Vol. III (pp. 788-1155)

DEC 3 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,
Petitioner,

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

No. 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioners.

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT ON APPEALS FOR THE FOURTH CIRCUIT

PETITIONS FOR WRITS OF CERTIORARI FILED APRIL 22, 1971 AND MAY 20, 1971
CERTIORARI GRANTED OCTOBER 12, 1971

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,

Petitioner,

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT ON APPEALS FOR THE FOURTH CIRCUIT

INDEX TO APPENDIX

	Page
Certified copy of docket entries	1
Complaint	26
Plaintiff's notice of motion and motion for a preliminary injunction	39
Plaintiff's notice of motion and motion for leave to join an additional party defendant and to file an amended complaint	41
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	43
Answer of all defendants with the exception of Halifax County Board of Education	47

INDEX TO APPENDIX

	Page
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	51
Answer of Halifax County Board of Education	56
Notice of hearing by Judge Butler	60
Order that Clerk file amended complaint and U. S. Marshal serve copies upon defendants	61
Amended complaint	62
Answer to amended complaint by all defendants except Halifax County Board of Education	69
Answer of defendant Scotland Neck Board of Education	72
Transcript of hearing on August 21-22, 1969	76
Deposition of Ferd Harrison	96
Deposition of C. M. Moore, Jr.	117
Deposition of Craig Phillips	153
Deposition of W. Henry Overman	218
Deposition of Henry Harrison	365
Deposition of Frank P. Shields	419
Deposition of Aubrey Powell	460
Deposition of F. Boyd Bailey	493
Affidavit of J. L. Pierce	580
Plaintiff's Exhibit #1	585
Plaintiff's Exhibit #2	587
Plaintiff's Exhibit #3	679
Plaintiff's Exhibit #5	681
Plaintiff's Exhibit #7	683
Plaintiff's Exhibit #8	684
Plaintiff's Exhibit #9	686
Plaintiff's Exhibit #10	687
Plaintiff's Exhibit #11	688
Plaintiff's Exhibit #13	727
Plaintiff's Exhibit #14	746
Plaintiff's Exhibit #17	759
Plaintiff's Exhibit #18	761
Order dismissing certain defendants	788
Memorandum opinion of Judge Larkins	790
Amended answer of the Scotland Neck City Board of Education	793

Page

Motion of defendant Scotland Neck City Board of Education that order be entered modifying temporary injunction ... 798

Order allowing Scotland Neck City Board of Education to use private donations for expenses and fees incurred ... 800

Motion of Robert Morgan, Attorney General of North Carolina, to intervene in this action in behalf of the state of North Carolina, as party defendant ... 801

Order allowing intervention of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina ... 804

Answer of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina ... 806

Order allowing motion of Halifax County to be dismissed as to the question of constitutionality of the Act creating Scotland Neck Unit ... 812

Answer to plaintiff's interrogatories by defendant Halifax County Board of Education ... 814

Memorandum opinion and order of Judge Larkins ... 923

Order amending order of 11/24/69 ... 925

Motion for leave to intervene by additional plaintiffs Pattie Black Cotton and Edward M. Francis, public school teachers of Halifax County, and others ... 926

Transcript of hearing on December 17, 1969 ... 931

Memorandum opinion and order allowing motion to intervene ... 994

Complaint in intervention ... 1000

Answer of defendant Scotland Neck City Board of Education to the complaint in intervention ... 1029

Answer to complaint in intervention by board of county commissioners of Halifax County ... 1046

Answer of defendant Halifax County Board of Education to the complaint in intervention ... 1051

Order that motion of defendants that effective date of implementation be delayed until on or about 6/1/70 is allowed; "Proposed Interim Plan" of defendant Halifax County Board of Education be implemented by board no later than 6/1/70 ... 1058

Opinion and order that further implementation of Chapter 31 of the 1969 Session Laws of North Carolina is permanently enjoined ... 1062

Page

Judgment that Chapter 31 of the 1969 Session Laws of North Carolina creating Scotland Neck Administrative Unit is declared to be unconstitutional and null and void. Defendants, their respective officers, agents, etc., are permanently enjoined from all further proceedings pursuant to said statute 1085

Amended order, amending order of district court dated 5/18/70 1086

Notice of appeal by Scotland Neck City Board of Education 1087

Notice of appeal to the United States Court of Appeals for the Fourth Circuit by Robert Morgan, Attorney General of North Carolina, North Carolina State Board of Education, and Dr. A. Craig Phillips, State Superintendent of Public Instruction 1088

Motion of defendant Halifax County Board of Education for further amendment to "Proposed Interim Plan" 1089

Plaintiff's response to defendant's motion to amend interim desegregation plan approved May 19, 1970 1092

Defendant Scotland Neck City Board of Education's Answer to motion of Halifax County Board of Education 1094

Plaintiffs' in intervention opposition to defendant's motion to amend interim desegregation plan approved May 19, 1970 1096

Order denying motion of defendants to amend the order of May 19, 1970, with respect to the operation of Scotland Neck School and Brawley School (Judge Larkins) 1098

Affidavit of W. Henry Overman dated September 15, 1970 (Enrollment Statistics) 1100

Affidavit of W. Henry Overman dated December 2, 1970 (Enrollment Statistics) 1102

Opinion and judgment of the United States Court of Appeals for the Fourth Circuit dated March 23, 1971 1104

Opinion of the United States Court of Appeals for the Fourth Circuit in *Wright* v. *Council of the City of Emporia*, March 23, 1971 1119

Order staying the mandate dated April 21, 1971 1151

Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-130 1152

Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-187 1152

Affidavit of W. Henry Overman dated October 14, 1971 (Enrollment Statistics) 1153

Halifax County map indicating the school districts and different schools 1155

[Caption Omitted]

ORDER

LARKINS, District Judge:

This cause coming on to be heard before the Court on a motion for a preliminary injunction filed by the plaintiff pursuant to the provisions of Sections 407(a) and (b) of the Civil Rights Act of 1964, as codified, 42 U.S.C.A. §§ 2000c-6(a) and (b) seeking to restrain the defendants from giving any force or effect to the provisions of Chapter 31 of the North Carolina Session Laws of 1969, an Act to establish a separate administrative unit for the operation of the public schools of the Town of Scotland Neck, North Carolina; and due notice having been given to the defendants; and the Court having considered the evidence and the argument of counsel and being fully advised in the premises; and it appearing to the Court that effectuation of the terms of the Act will result in the operation of the schools of Scotland Neck, North Carolina, and Halifax County, North Carolina, on a racially discriminatory basis to the irreparable damage of the United States and the Negro pupils of Halifax County; and it further appearing to the Court that no injunctive relief as to effectuation of the provisions of Chapter 31 is being sought against the defendant Halifax County Board of Education; and that the defendants Ferd L. Harrison, as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr., as members of the Board of Commissioners of the Town of Scotland Neck, and the Town of Scotland Neck, a body corporate, are not proper parties to this action;

It is, therefore, ORDERED, ADJUDGED and DECREED:

THAT the motion to dismiss filed on behalf of the defendants Ferd L. Harrison, as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr., as members of the Board of Com-

missioners of the Town of Scotland Neck, and the Town of Scotland Neck, a body corporate, be, and the same hereby is allowed; and

THAT the defendant Scotland Neck City Board of Education and its officers, agents, employees and successors are hereby enjoined from giving any force or effect to the provisions of Chapter 31 and from taking any action pursuant to the provisions of Chapter 31 pending a final determination on the merits of the issues raised in the present action; and

THAT pursuant to the provisions of Rule 65(c) of the Federal Rules of Civil Procedure, no security shall be required of the plaintiff, United States of America; and

THAT this ORDER shall become effective as of 12:00 Noon on Monday, August 25, 1969; and

THAT a Memorandum Opinion subsequently will be filed in this action; and

THAT the Clerk shall serve copies of this ORDER upon all counsel of record, and the defendants.

Let this ORDER be entered forthwith.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

/s/ Algernon L. Butler
ALGERNON L. BUTLER
United States District Judge

Raleigh, North Carolina
August 25, 1969

[Caption Omitted]

MEMORANDUM OPINION

EARKINS, District Judge:

This Court entered its ORDER on August 25, 1969, effective at 12:00 noon. The Clerk served copies of said ORDER upon all defendants and counsel of record.

Pursuant to said ORDER this MEMORANDUM OPINION is filed in support of said ORDER and is included therein by reference.

This cause coming on to be heard before the United States District Judges for the Eastern District of North Carolina, and being heard upon the motions of plaintiffs and additional plaintiffs for a preliminary injunction and for a declaratory judgment; and due notice having been given to all defendants; and the Court having considered the evidence, the stipulations, the briefs and arguments of counsel, and being fully advised in the premises, makes the following:

FINDINGS OF FACT

1. On March 3, 1969, the General Assembly of North Carolina ratified a measure designated Chapter 31, Session Laws of North Carolina 1969, creating the Scotland Neck City Administrative Unit in Halifax County to operate the public schools in said unit; providing that all public school property located within the unit should become the property of the unit; providing for a supplemental tax levy, and directing a special election to authorize the establishment of said unit and the levying of said tax. The voters approved said proposals.

2. The Board of Education of the Scotland Neck City unit permits transfers of students in and out of said units. Scotland Neck City has established a tuition charge of $100.00 a year for the first child in a family, $25.00 for the second child, $25.00 for the third child, and each subsequent child per family free, for all students transferring into said unit.

3. During the school year 1968-69, all the public schools of Halifax County were operated by the Halifax

County Board of Education. There was a total of 10,655 students. The racial composition of the county school system was approximately as follows: White, 2,357 (22%); Negro, 8,196 (78%), and Indian, 102.

4. The Scotland Neck City unit has approximately 695 *resident* students: White, 399 (57.4%); Negro, 296 (42.6%). The school facilities within the unit will accommodate approximately 1,000 students. Since the creation of the City unit under the 1969 Act, 350 Whites, and 10 Negroes have transferred from the county schools into the City unit; 44 Negroes in the eleventh and twelfth grades have transferred from the city to the Brawley High School in the county system. The net effect on the City unit for the school year 1969-70 is as follows: White, 759 (74%); Negro, 262 (26%).

5. The racial composition of the county school system as a result of the creation of the administrative unit, and taking into consideration the net effect of the transfers in and out of the systems, is as follows: White, 1,598 (17%); Negroes, 8,186 (83%); Indian, 102.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the parties and of the subject matter of this proceeding.

2. Without determining the constitutionality of Chapter 31 of the 1969 Session Laws of North Carolina, the Act in its application creates a refuge for white students, and promotes segregated schools in Halifax County.

3. The Act impedes and defeats the Halifax County Board of Education from implementing its plan to completely desegregate all of the public schools in Halifax County by the opening of the school year 1969-70.

4. Unless the defendants are enjoined, the plaintiffs will suffer immediate and irreparable injury by the deprivation of their constitutional rights.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Raleigh, North Carolina
August 25, 1969

[Caption Omitted]

AMENDED ANSWER

The defendant, The Scotland Neck City Board of Education, a body corporate, answering the Amended Complaint, alleges and says:

1. That as to the allegations contained in Paragraph 1, Claim One, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

2. That the allegations contained in Paragraph 2 of Claim One are admitted.

3. That as to the allegations contained in Paragraph 3, Claim One, it is admitted that the defendant Halifax County Board of Education (hereinafter the Halifax County Board) is a body corporate, organized and existing under the laws of the State of North Carolina, and it has a duty under North Carolina law to operate a public school system in Halifax County, North Carolina other than in the Town of Scotland Neck.

4. That the allegations contained in paragraph 4 of Claim One are admitted.

5. That the allegations contained in Paragraph 5 of Claim One are admitted.

6. That the allegations contained in Paragraph 6 of Claim One are admitted.

7. That as to the allegations contained in Paragraph 7, Claim One, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

8. That the allegations contained in Paragraph 8 of Claim One are admitted.

9. That the allegations contained in Paragraph 9 of Claim One are admitted.

10. That the allegations contained in Paragraph 10 of Claim One are admitted.

11. That the allegations contained in Paragraph 11 of Claim One are admitted.

12. That as to the allegations contained in Paragraph 12 of Claim One it is admitted that the Scotland Neck

Board has hired a Superintendent of Schools and is prepared to open its schools for students on August 28, 1969, and it is further admitted that the vast majority of the students who will attend the schools of the Scotland Neck City Administrative Unit during the 1969-70 school year attended schools operated by the Halifax County Board during the previous year; all other allegations contained in Paragraph 12 are denied.

13. The allegations and averments contained in Paragraph 13, Claim One are denied.

14. The allegations and averments contained in Paragraph 14, Claim One are denied.

15. The allegations and averments contained in Paragraph 15, Claim One are denied.

16. It is admitted that unless restrained by order of the Court this answering defendant will continue to give full force and effect to the provisions of Chapter 31; all other allegations contained in Paragraph 16 are denied.

17. That as to the allegations contained in Paragraph 17 of Claim Two, which realleges Paragraphs 1, 2, 3, 7 and 8 of the Claim One, this defendant answers said paragraph in the same manner as above.

18. That as to the allegations contained in Paragraph 18, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

19. That as to the allegations contained in Paragraph 19, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

20. That as to the allegations contained in Paragraph 20, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

21. The allegations and averments contained in Paragraph 21, Claim Two are denied.

22. The allegations and averments contained in Paragraph 22, Claim Two are denied.

FIRST FURTHER ANSWER

For a First Further Answer to the Plaintiff's amended complaint this Defendant alleges and says:

1. The Statute (North Carolina Session Laws 1969, Chapter 31) hereafter called the "Statute," the constitutionality of which is here challenged by the Plaintiff, followed a long established North Carolina legislative precedent and pattern of the formation of a special administrative school unit within a county consisting usually of a municipality. There are in North Carolina, exclusive of Scotland Neck, fifty-two special municipal administrative school units.

2. The Statute created a special school administrative unit; the boundaries of which were designated as the municipal boundaries of the Town of Scotland Neck. Within the geographic boundaries of the Town of Scotland Neck there now reside approximately 751 students of school age; 56.86 percent of which are white and 43.14 percent of which are negro. Classroom facilities within the town limits can accommodate approximately 812 students; 784 of which are accommodated by permanent facilities and 28 of which are accommodated by a mobile classroom.

3. The Statute provides, as conditions precedent to the formation of the unit, a vote of the people in Scotland Neck approving both the formation of the unit and the imposition of a school tax of 50 cents on the dollar of taxable property valuation in the town.

4. By election held pursuant to the Statute, the people of Scotland Neck approved both the formation and the imposition of the special school tax.

5. The resident school population is sufficient to constitute an efficient separate school administrative unit, and the special tax funds will enable the Defendant to offer to its resident students an educational system which is greatly superior to that heretofore enjoyed by them and superior to that which would be available to them if there were no such tax. Defendant made ar-

rangements to operate such an improved school system in Scotland Neck for the school year 1969-1970.

6. On August 25, 1969 there was issued a temporary injunction in this cause, preventing Defendant from taking any further steps in connection with the operation of a school unit until the final determination of the merits of this cause.

7. The single issue in this case is the constitutionality of the Statute. The issue is not the propriety or the legality of whatever might, from time to time, be the plan or plans of operation under the Statute.

8. It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court.

WHEREFORE, this Defendant respectfully prays that:

1. The Court declare to be constitutional Chapter 31 of the 1969 Session Laws of North Carolina;

2. The Court dissolve the temporary injunction heretofore issued in this cause on the 25th day of August, 1969;

3. The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant to the Court and for the hearing of any objection that may be filed thereto.

C. KITCHIN JOSEY

/s/ William T. Joyner
WILLIAM T. JOYNER

/s/ Walton K. Joyner
WALTON K. JOYNER
Attorneys for the defendant, Scotland Neck City Board of Education, a body corporate

[Caption Omitted]

MOTION

Now comes the defendant, the Scotland Neck City Board of Education, a body corporate, by and through its attorney, C. Kitchin Josey, and respectfully shows unto the Court:

1.

That at 12 o'clock noon on the 25th day of August, 1969, an order was entered in this cause enjoining this defendant "from taking any action pursuant to the provisions of Chapter 31 (of the 1969 Session Laws of North Carolina) pending a final determination on the merits of the issues raised in the present action."

2.

That prior to the entering of the above mentioned order this defendant in its official capacity and in accordance with the laws of the State of North Carolina under its then policy accepted students that lived outside the school administrative unit boundaries on a tuition basis receiving approximately $11,656.53 from the parents of such tuition students. Of this amount, $2,970.66 was expended by this defendant for obligations incurred prior to the entering of the above mentioned order.

3.

That the defendant, the Scotland Neck City Board of Education, desires to repay in full the parents of the students who have previously paid in these tuition funds.

4.

That the Scotland Neck City Board of Education has heretofore incurred certain legal expenses in connection with the defense of this cause and the said defendant expects to incur certain additional expenses until this matter is finally determined.

5.

That this defendant has been offered certain private donations from citizens in this area and particularly the citizens of the Town of Scotland Neck for the purpose of repaying the parents of the tuition students and for the purpose of defraying expense of defending this law suit.

WHEREFORE, this defendant prays the Court that an order be entered modifying the temporary injunction order of August 25, 1969, to the effect that the defendant, the Scotland Neck City Board of Education, be allowed to receive donations from private sources and to use such funds, together with the tuition funds now in its hands, for the repayment of the amounts heretofore paid by parents of tuition students, and further that said Board be permitted to use said privately donated funds for the purpose of legal expenses and fees incurred and to be incurred until this matter is finally determined.

This the 12th day of September, 1969.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY, William T. Joyner and Walton K. Joyner, Attorneys for the Scotland Neck City Board of Education

[Caption Omitted]

ORDER

This cause coming on to be heard on a Motion by the defendant, the Scotland Neck City Board of Education, a body corporate, for a modification of the order of preliminary injunction heretofore entered by this Court at 12 o'clock noon on August 25, 1969, to the effect that certain funds now in said defendant's hands and certain private donations be authorized for use by said defendant to repay certain parents of tuition students and for authority to use said privately donated funds for the purpose of defraying legal expenses in connection with the defense of this cause;

And it appearing to the Court that the requested modification of said temporary injunction is proper and said Motion should be allowed;

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED that the defendant, the Scotland Neck City Board of Education, be allowed to receive donations from private sources and to use such funds, together with the tuition funds now in its hands, for the repayment of the amounts heretofore paid by parents of tuition students, and further that said Board be permitted to use said privately donated funds for the purpose of legal expenses and fees incurred and to be incurred until this matter is finally determined.

IT IS FURTHER ORDERED that the Clerk shall serve copies of this Order upon all counsel of record.

Let this Order be entered forthwith.

/s/ Algernon L. Butler
CHIEF UNITED STATES
DISTRICT JUDGE

/s/ John D. Larkins, Jr.
UNITED STATES
DISTRICT JUDGE

[Caption Omitted]

MOTION OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, TO INTERVENE IN THIS ACTION IN BEHALF OF THE STATE OF NORTH CAROLINA, AS PARTY DEFENDANT.

Robert Morgan, Attorney General of North Carolina, in behalf of the State of North Carolina, hereby moves the Court for leave to intervene in this action in order to assert the defenses of the State of North Carolina, as set forth in the proposed Answer of which a copy is hereto attached, on the grounds and for the reasons, as follows:

1. That Applicant, Robert Morgan, is the duly elected and qualified Attorney General of the State of North Carolina, and makes this application to intervene in this action in behalf of said State of North Carolina; that North Carolina is one of the States that compose the United States of America and exercises such powers and duties as set forth in its Constitution and Laws enacted by its General Assembly and in accordance with the Constitution of the United States.

2. That this motion to intervene in this action by the Attorney General of North Carolina is made in behalf of said State of North Carolina (hereinafter referred to as: Applicant) pursuant to the Federal Rules of Civil Procedure, the same being Rule 24; that this application is made as a matter of right in that the constitutionality of one of the acts or statutes of said State is involved in said action; that applicant may be bound by any judgment entered by the Court in this action, and applicant is entitled to adequate representation on the question of the constitutionality of said State act or statute; that applicant is also entitled to intervene in this action in the discretion of the Court and as a permissive intervention in that the plaintiff relies upon the allegation of the unconstitutionality of an act or statute of this State as a part of its claim; that there is a common question of law and fact as the constitutionality of said State law or

act is drawn into question and if said intervention is allowed, as herein requested, the same will not unduly delay or prejudice the adjudication of the rights of the parties.

3. That the act of the General Assembly drawn in question as to its constitutionality in this action is Chapter 31 of the Session Laws of 1969, which became effective on the 3rd day of March, 1969; that a copy of said act is attached to the amended complaint of the United States of America and is hereby referred to as a part of this motion; that the plaintiff alleges that said act and its implementation is in violation of the Fourteenth Amendment to the Constitution of the United States and this is denied by the applicant; that applicant, if allowed to intervene in this action, will allege and assert that said act is valid and that its result is to establish a city board of education similar to many other city boards of education throughout the State of North Carolina and which have been established for many years; that if said act is held by the Court to be invalid and unconstitutional the status and establishment of all other boards of education, both city and county, will be put in jeopardy.

4. That applicant accepts the status of this action as heretofore developed but reserves the right to except to any evidence orders, rulings or proceedings that may be made or entered, or heretofore made and entered, contrary to the constitutional validity of said act or statute, and the right to argue in support of the validity of said act or statute; that applicant agrees to be bound by the temporary injunction heretofore entered in this cause but reserves the right to move that same be vacated by the Court.

5. That annexed hereto, in accordance with Rule 24 (c) of the Federal Rules of Civil Procedure is a proposed pleading entitled: "Answer of Robert Morgan, Attorney General of North Carolina, in behalf of the State of North Carolina, in Intervention." The applicant moves the Court that said pleading be deemed the appearance of applicant in support of the constitutionality of the act of the General Assembly of North Carolina, and in opposition to all pleadings and motions of the parties

hereto that have been or may be made herein insofar as said pleadings and motions are based on the contention that said act of the General Assembly of North Carolina is in any respect, or in any application, unconstitutional.

WHEREFORE: Applicant prays the Court that an order be entered herein allowing applicant to intervene in this action as a party defendant and that his proposed answer be filed as a pleading in this action; that this motion be brought on before the Court for hearing on October 24, 1969, at the Federal Courtroom in Raleigh, North Carolina, or at such other time as may be convenient and as ordered by the Court.

/s/ Robert Morgan
Attorney General of
North Carolina

/s/ Ralph Moody
Deputy Attorney General of
North Carolina
P. O. Box 629
Justice Building
Raleigh, North Carolina 27602

[Caption Omitted]

ORDER ALLOWING INTERVENTION OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, IN BEHALF OF THE STATE OF NORTH CAROLINA.

This cause coming on to be heard upon the Motion of the Attorney General of North Carolina that he be allowed to intervene in this action as an Intervenor-Defendant in behalf of the State of North Carolina; and

It appearing to the Court that there is involved in this action a question as to the validity and constitutionality of an Act of the General Assembly of North Carolina; that this is a question of public interest throughout the State and involves the right of the State to create a public school administrative unit; that it is a legal possibility that the State of North Carolina may be bound by the judgment entered by the Court between the parties plaintiff and defendants as this action now stands; that there is a common question as to the validity of a similar statute involved in the Warren County case which is consolidated with this case; that the defendants in this action rely upon the validity of Chapter 31 of the Session Laws of 1969, enacted by the General Assembly of North Carolina:

IT IS, THEREFORE, ORDERED AND ADJUDGED BY THE COURT: That as a matter of right, or in the alternative, in the discretion of the Court, as a permissive right, the Attorney General of North Carolina, in behalf of the State of North Carolina, be, and he is hereby allowed, to intervene in this action as a party intervenor-Defendant, and that he be allowed to file his Answer which is attached to the Motion herein filed.

IT IS FURTHER ORDERED BY THE COURT: That said Intervenor-Defendant shall accept the status of this action as it now stands and shall be bound by the Temporary Restraining Order heretofore entered in this cause with the right to adopt the objections, exceptions and motions in this cause that have heretofore been en-

tered by the other defendants and to support the validity of Chapter 31 of the Session Laws of 1969, as enacted by the General Assembly of North Carolina.

IT IS FURTHER ORDERED BY THE COURT: That the Plaintiff be allowed to file such responsive pleading to the Answer of the Intervenor-Defendant as it shall deem to be advisable.

This the 31 day of October, 1969.

/s/ Algernon L. Butler
Chief Judge of the District Court of the United States for the Eastern District of North Carolina

/s/ John D. Larkins, Jr.
Judge of the District Court of the United States for the Eastern District of North Carolina

A True Copy, Teste:
SAMUEL A. HOWARD
Clerk

By /s/ [Illegible]
Deputy Clerk

[Caption Omitted]

ANSWER OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, IN BEHALF OF THE STATE OF NORTH CAROLINA—INTERVENOR-DEFENDANT.

The Intervenor-Defendant, Robert Morgan, Attorney General of North Carolina, in behalf of the State of North Carolina, answering the original and amended complaints, filed herein, alleges:

ORIGINAL COMPLAINT

1. The Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of Paragraph 1 of the original complaint, and, therefore, denies the same.

2. The allegations of Paragraph 2 of the original complaint are denied.

3. The allegations of Paragraph 3 of the original complaint are admitted.

4. The allegations of Paragraph 4 of the original complaint are admitted.

5. The allegations of Paragraph 5 of the original complaint are admitted.

6. That the Intervenor-Defendant is not concerned with the matters alleged in Paragraph 6 of the original answer and neither admits or denies the same.

7. The Intervenor-Defendant is not concerned with the matters alleged in Paragraph 7 and is not required to answer same.

8. The Intervenor-Defendant is not concerned with the matters alleged in Paragraph 8 and is not required to answer same.

9. The allegations of Paragraph 9 of the original complaint are admitted.

10. The Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of Paragraph 10 of the original complaint, and, therefore, denies the same.

11. The allegations of Paragraph 11 are admitted.

12. The Intervenor-Defendant for lack of knowledge or information to form a belief as to the truth of Paragraph 12 of the original complaint denies the same.

13. The allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are denied.

15. The allegations of Paragraph 15 are denied.

CLAIM TWO

16. That Paragraphs 1, 2, 3, 6 and 8 of this Answer are re-alleged as Answers to this Claim and incorporated herein by reference as if fully set forth and alleged herein.

17. For lack of knowledge or information sufficient to form a belief as to the truth of allegations 17, they are denied.

18. The Intervenor-Defendant alleges that he is not required to answer Paragraph 18 of the original complaint since they are concerned with matters of administration.

19. Answering the allegations of Paragraph 19 of the original complaint the Intervenor-Defendant alleges that neither the State, the State Board of Education, or the State Superintendent of Public Instruction has any legal authority to fix attendance areas, assign pupils to the various facilities of the public school system, or to adopt or implement plans of desegregation; and except as here alleged said paragraph is denied.

20. On information and belief, said paragraph is denied.

21. The allegations of Paragraph 21 are denied.

AMENDED COMPLAINT

1. Answering Paragraph 1 of the amended complaint, it is admitted that the Attorney General of the United States attached to the original complaint his certification as therein shown; that it is a condition precedent to the bringing of this action that there shall be secret complaints made to the Attorney General of the United States; that any action based upon secret complaints is

void, invalid and unconstitutional and a violation of the due process clause and the equal protection of the law clause of the Fourteenth Amendment of the Constitution of the United States; that the provisions of 42 USC 2000c-6(a) and (b) are unconstitutional and void in that said provisions purport to confer jurisdiction upon Federal Courts to entertain actions based upon secret complaints, discriminate in favor of one ethnic group as against another ethnic group by furnishing government attorneys to one group as against another group, furnish costs and expenses in favor of one group as against another group, and thus create an invidious discrimination in favor of one group of citizens as against another group of citizens in violation of the Fourteenth Amendment of the Constitution of the United States; and except as herein alleged said paragraph 1 of amended complaint is untrue and is denied.

2. The allegations of Paragraph 2 of the amended complaint are untrue and are denied.

3. The allegations of Paragraph 3 are admitted.

4. The allegations of Paragraph 4 are admitted except it is denied that such action should lawfully be maintained.

5. The allegations of Paragraph 5 are admitted.

6. The allegations of Paragraph 6 are admitted.

7. That the Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7, and, therefore, denies the same.

8. The allegations of Paragraph 8 are denied for lack of knowledge or information sufficient to form a belief as to the truth of same.

9. The allegations of Paragraph 9 are admitted.

10. The allegations of Paragraph 10 are admitted.

11. The allegations of Paragraph 11 are admitted.

12. Answering the allegations of Paragraph 12 on information and belief, Intervenor-Defendant admits that the Scotland Neck City Board of Education hired a Superintendent of Schools and prepared to open its schools for the school year beginning in the Fall of 1969; that

except as herein admitted the allegations of Paragraph 12 are denied.

13. The allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are untrue and are denied; further answering said paragraph, Intervenor-Defendant alleges that it is untrue that the size and pupil enrollment should control the size of the educational administrative unit; that large educational units with marching bands, football teams, gymnasiums and many social and athletic events and numerous extracurricular activities are desired by those who still worship the outworn creed and bankrupt philosophy of so-called progressive education in which system actual imparting of knowledge and instruction of the pupil is lost in the shuffle; that in many cases the smaller unit furnishes better financing, better instructors and graduates a student of high caliber who completes his college education; it is further alleged that the people have the constitutional right to determine the type of administrative unit they desire and not theoretical so-called educators who desire a bureaucratic, dictatorial public school system under their complete control; that the Federal Government has no constitutional right, under the guise of constitutional interpretation, to determine the type and size of the school administrative unit that the people of the State shall have and use.

15. The allegations of Paragraph 15 are untrue and are denied; further answering said paragraph, the Intervenor-Defendant alleges that Chapter 31 of the Session Laws of 1969, is a constitutional and valid act of the General Assembly of North Carolina and is within the scope and authority of said General Assembly; that county and city boards of education as the proper agencies of administering the public schools of the State have been in force and effect since the School Machinery Acts of 1933 and 1935 and there is some 160 to 180 such administrative units established in the State; that there are administrative school units in the State that are as small, and some slightly larger, as the Scotland Neck City Administrative Unit and they have operated for some years; that the Scotland Neck City Board of Education

has never had the chance to administer its school system and constitutional attack on its proposed or future administration is nothing but speculation and conjecture; that no constitutional attack of this nature can be made until the practical results of such administration are available; that if Chapter 31 of the Session Laws of 1969, is unconstitutional and invalid then the stability of every school administrative unit in the State of North Carolina is endangered and subject to attack if the members of the black race are dissatisfied and displeased with its boundaries and enrollment limitations and it will take a Federal decree to settle every boundary and attendance area; it is again denied that Chapter 31 of the Session Laws of 1969, is unconstitutional and invalid or that it violates any provision of the Fourteenth Amendment to the Constitution of the United States and it is alleged that those who pay the largest part of the taxes that support the public school system of the State should have some voice in public school administration.

16. The allegations of Paragraph 16 are untrue and are denied.

CLAIM TWO

17. That the answers to Paragraphs 1, 2, 3, 7 and 8 of Claim One of this Amended Complaint are here realleged in this Claim and are made a part hereof by reference.

18. That the Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18, and, therefore, denies the same.

19. That the allegations of Paragraph 19 relate to the Halifax County Board of Education and this Intervenor-Defendant does not know what alternative methods of pupil assignment are available for this county unit, and, therefore, denies said Paragraph 19.

20. That Intervenor-Defendant does not know what the Halifax County School Administrative Unit has failed and refused to do nor what plan of desegregation it has failed to adopt, and, therefore, denies said paragraph 20.

21. The allegations of Paragraph 21 are untrue and are, therefore, denied.

22. The allegations of Paragraph 22 are untrue and are denied.

WHEREFORE: having fully answered, the Intervenor-Defendant prays the Court:

(a) That Chapter 31 of the Session Laws of 1969, enacted by the General Assembly of North Carolina, be declared to be constitutional and valid.

(b) That this action be dismissed and the Temporary Restraining Order heretofore entered in this cause be dismissed.

(c) That such other and further relief be granted by the Court as may be proper and just.

/s/ Robert Morgan
Attorney General of
North Carolina

/s/ Ralph Moody
Deputy Attorney General of
North Carolina
P. O. Box 629
Justice Building
Raleigh, North Carolina 27602

[Caption Omitted]

ORDER

This cause coming on to be heard before the Court on a motion for a preliminary injunction filed by the plaintiff seeking to restrain the defendants from giving any force or effect to the provision of Chapter 31 of the North Carolina Session Laws of 1969, an Act to establish a separate unit for the operation of the public schools of the town of Scotland Neck, North Carolina and there being also before the Court a motion by the defendant, Halifax County Board of Education, that it be dismissed from that portion of this action dealing with the constitutionality of the Scotland Neck Act as said defendant was not a party to the creation of said Scotland Neck Unit; and it appearing to the Court that said defendant, since it was not a party to the creation of said Act, should not be put to the expense of defending this action in this Court or in any subsequent appeals, if any there be, as said defendant is already before the Court charged with violation of the Civil Rights Act and will be bound by the orders of this Court to comply with all the laws, state and federal, affecting the public schools in Halifax County;

It is therefore, ORDERED, ADJUDGED and DECREED:

THAT the motion of the defendant that it be dismissed from this action is allowed insofar as the question of the constitutionality of the Act creating the Scotland Neck Unit is concerned. Said defendant will no longer be required to defend or appear in subsequent actions involving only the constitutionality of the Act creating said unit, but said defendant is not relieved from the other parts of this action involving its violation of the Civil Rights Act, but shall comply with the orders of this Court, and orders of any Appellate Court or the Supreme Court of the United States of America, as they may effect the operations of the public schools of Halifax County.

THAT this ORDER shall become effective as soon as it is executed by the Court.

Let this ORDER be entered forthwith.

This the 3rd day of November, 1969.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

ALGERNON L. BUTLER
United States District Judge

Raleigh, North Carolina
October ...., 1969

PLAINTIFF'S EXHIBIT #38

Civil Action No. 1128

ANSWER TO PLAINTIFF'S INTERROGATORIES TO DEFENDANT HALIFAX COUNTY BOARD OF EDUCATION

October 28, 1969

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
NORTH CAROLINA

WILSON DIVISION

Civil Action No. 1128

UNITED STATES OF AMERICA, PLAINTIFF,

v.

HALIFAX COUNTY BOARD OF EDUCATION, a body corporate, and the SCOTLAND NECK CITY BOARD OF EDUCATION, a body corporate, DEFENDANTS.

ANSWER TO PLAINTIFF'S INTERROGATORIES TO DEFENDANT HALIFAX COUNTY BOARD OF EDUCATION

APPENDIX

Questions	Page
1	1
2	6
3a	9
3b	28
3c	48
3d	49
4a	54
4b	96
5a	98
5b	100
6	103
7	104
8a	105
8b	107
8c	107
9a	111
9b	111
9c	111
9d	112
10	114
11	115
11a, b	139
12	140
13	141
14	143
15	145
16	147
17	150
18	151
19	160
20	161
21	163
22	164
23	169

1. Please state the name, location, grades served, date of construction and any substantial additions, and attendance zone lines for each school in defendant's school unit for the 1969-70 school year. If there are no present attendance zones, describe the lines for the zones for the last year before they were eliminated, and state what year that was. If possible, please show as much of this information as practicable on a map, such as a general highway map prepared by the North Carolina Highway Department.

1. The names of schools, grades served, date of construction and substantial additions for the schools in Halifax County Unit in the 1969-70 school unit are shown on the attached form. (See attached sheet No. 1). The location of these schools are shown on the attached map (See attached map No. 1).

There were no attendance zones during the 1968-69 school year except for pupils in grades 7 and 8 who were transferred to predominantly white schools as follows:

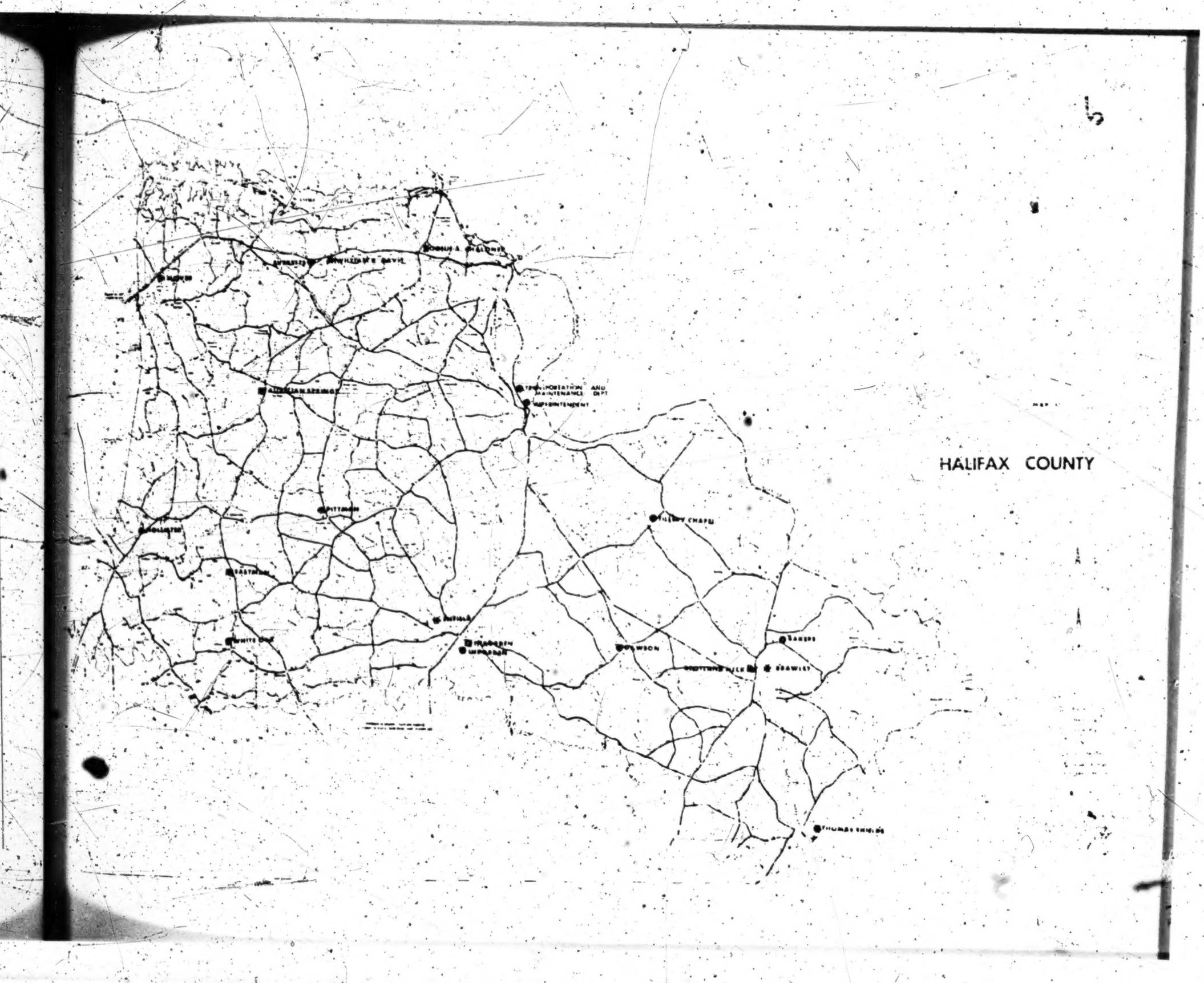
- Grades 7 and 8 from John A. Chaloner School to William R. Davie School.
- Grades 7 and 8 from McIver School to Aurelian Springs School.
- Grades 7 from Inborden Elementary School to Enfield School.
- Grades 7 and 8 from Brawley School to Scotland Neck School.

There are no attendance zones for the 1969-70 school year.

School	Grades Served	Date of Construction	Date of substantial additions
Aurelian Springs Route 2, Littleton, N. C.	1-12	1922—4 classrooms Auditorium	1925—4 classrooms, 1 library 1929—5 classrooms, library 1934—6 classrooms 1935—1 classroom, 1 shop 1948—Gym-Cafeteria 1959—3 classrooms
Bakers Elem. Route 1, Box 103 Scotland Neck, N.C.	1-8	1959—10 classrooms 1 Library	1961—3 classrooms, 1 Cafetorium
Brawley School Scotland Neck North Carolina	1-12	1926—8 classrooms 1 Library	1937—8 classrooms 1942—2 classrooms, 1 shop 1951—5 classrooms, 1 library 1955—5 classrooms 1960—Gymntorium, 4 classrooms 1968—Cafeteria
Dawson Elem. Scotland Neck North Carolina	1-8	1938—4 classroom 1 Music Room	1957—6 classrooms 1960—10 classrooms, 1 library, Cafetorium
Eastman Route 2, Enfield, N.C.	1-12	1947—1 cl. sroom 1 sh	1949—Gymtorium 1953—5 classrooms, 1 library 1956—7 classrooms 1959—13 classrooms, 1 library 1968—Cafetorium
Enfield Graded Enfield, N.C.	1-12	1948—20 classrooms Library Auditorium Cafeteria Gym	1952—1 classroom, 1 shop

School	Grades Served	Date of Construction	Date of substantial additions
Everetts Elem. Route 1, Roanoke Rapids, N.C.	1-8	1958—14 classrooms Library	1960—6 classrooms, Cafetorium
Hollister Elem. Hollister, N.C.	1-8	1960—13 classrooms	1966—Cafetorium, Library
Inborden Elem. Enfield, N.C.	1-8	1948—12 classrooms cafeteria	1954—2 classrooms 1956—2 classrooms, library 1960—12 classrooms 1969—Cafetorium
Inborden High Enfield, N.C.	9-12	1951—5 classrooms library	1955—3 classrooms, Gymtorium 1961—1 classroom, 1 shop
J. A. Chaloner Roanoke Rapids North Carolina	1-12	1924—5 classrooms library auditorium	1938—4 classrooms 1940—1 classroom, 1 shop 1941—7 classrooms, cafeteria 1942—1 classroom 1944—1 music room 1945—Gymnasium 1950—2 classrooms 1955—6 classrooms 1958—9 classrooms, library
McIver High Littleton, N.C.	1-12	1925—6 classrooms	1930—4 classrooms 1941—band room, 1 classroom, 1 shop 1948—Gymnasium 1954—2 classrooms, library 1959—8 classrooms 1964—6 classrooms 1968—cafetorium

School	Grades Served	Date of Construction	Date of substantial additions
Pittman Elem. Route 3, Enfield, N.C.	1-8	1959—15 classrooms library	1960—cafetorium, 1 classroom
Scotland Neck School Scotland Neck, N.C.	1-12	1903—12 classrooms library	1923—cafeteria, 8 classrooms, library 1939—1 Home Ec. Lab., 2 classrooms, 1 shop, Gymnasium 1949—1 classroom 1954—4 classrooms, auditorium 1960—4 classrooms, cafeteria, library
Thomas Shields Hobgood, N.C.	1-8	1957—6 classrooms	1958—4 classrooms 1961—library, cafetorium
Tillery Chapel Elem. Tillery, N.C.	1-8	1932—4 classrooms	1957—6 classrooms 1962—1 classrooms, library, cafetorium.
White Oak Route 2, Enfield, N.C.	1-8	1959—10 classrooms	1966—1 classroom, library, cafetorium.
Wm. R. Davie Route 1, Roanoke Rapids, N.C.	1-12	1940—11 classrooms 1 library auditorium	1952—4 classrooms, library 1953—1 shop, cafeteria, gymnasium. 1955—5 classrooms 1958—4 classrooms 1961—2 classrooms


HALIFAX COUNTY

2. Please describe any changes in the number, names, locations, grades served or attendance zone lines of the schools in defendant's school unit since the beginning of the 1964-65 school year.

2. Changes in school organization since the beginning of the 1964-65 school term are as follows:

a. John Armstrong Chaloner School formerly in Roanoke Rapids City School Unit, by order of officials of the Civil Rights Division of the U.S. Department of Health, Education and Welfare, by agreement between the Boards of Education of Roanoke Rapids City School Unit and the Halifax County School Unit and by action of the State Board of Education began operating as a part of the Halifax County School Unit at the beginning of the 1966-67 school year. This school had been operating to serve approximately 80% who were living within the Halifax County Unit. Approximately, 190 students or 20% living within the boundaries of Roanoke Rapids City Administrative Unit transferred to other schools in the Roanoke Rapids Unit.

b. Hobgood School, grades 1-8, was closed at the end of the 1966-67 school year. By choice, elementary students have been attending Scotland Neck School from the beginning of the 1967-68 school year. The Scotland Neck School attendance area for grades 1-12 became the same as the attendance area for the grades 9-12. (See map attached, No. 1).

c. Upon closing the high school department of the Haliwa School in Warren County, approximately 70 students in grades 9-12 who live near Hollister in Halifax County transferred to schools in Halifax County at the beginning of the 1967-68 school year. The elementary department of the Haliwa School was closed at the end of the 1968-69 school year and approximately 140 students grades 1-8 who live in Halifax County transferred to schools in Halifax County.

2. (d) Upon closing grades 1-5 of the Littleton School in Warren County at the close of the 1968-69 school term

approximately 60 students who live in Halifax County were transferred to Halifax County Schools. (See attached map No. 1).

3. (a) Please state the enrollment in each school by grade and race for the 1964-65, 1965-66, 1966-67, 1967-68, 1968-69 and 1969-70 school years, and for any other school year in which there was any desegregation of pupils in the system.

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Aurelian Springs

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	30		20		25		26		25	3	16	(20)
2	21		28		17		28		25		25	(17)1
3	23		23		25	1	16	1	28		19	(21)
4	26		28		20	1	28	1	20		23	(19)
5	31		27		23		21	1	29	1	18	(23)1
6	29		33		23	1	25		19		27	(15)1
7	36		28		30	1	24	1	25	53	18	(12)
8	37		39		26		29	2	22	64	25	(15)
Spec. Ed.												(12)
9	38		46		38	17	31	22	31	23	14	(22)3
10	27		33		42	14	29	17	26	18	29	(14)4
11	33		25		35	11	38	13	31	13	25	(16)3
12	24		30		23	12	26	14	36	10	24	(12)1
TOTAL	365		360		326	58	321	72	317	186	263	232

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Bakers

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		49		42		39		36		27		36
2		44		49		37		42		34		29
3		52		39		41		31		36		39
4		47		41		36		37		29		39
5		45		41		33		39		43		27
6		43		49		41		34		38		45
7		43		47		56		86		33		34
8		42		37		44		49		34		35
Spec. Ed.		18		18		20		15		9		
9												
10												
11												
12												
TOTAL		383		363		347		319		283		284

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Brawley

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		65		61		63		48		60		50
2		67		61		52		50		59		54
3		70		62		54		49		54		53
4		71		66		55		56		49		55
5		72		70		58		55		66		42
6		66		74		75		58		61		52
7		69		68		73		82				48
8		61		68		70		80				56
Spec. Ed.		18		18		18		35		15		
9		221		234		218		232		288		247
10		161		170		192		157		182		184
11		112		111		143		141		154		152
12		104		96		106		108		118		124
TOTAL		1157		1159		1177		1151		1106		1117

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Dawson

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		80		67		66		56		49		39
2		70		74		62		56		51		42
3		72		68		67		54		51		41
4		83		61		60		59		48		48
5		77		75		62		55		59		39
6		62		71		78		60		50		52
7		54		55		66		63		62		48
8		64		49		52		56		63		54
Spec. Ed.				16		14		16		26		27
9												
10												
11												
12												
TOTAL		562		536		522		475		459		390

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Eastman

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		71		61		54		57		50		46
2		63		62		63		50		58		56(1)
3		76		62		53		68		41		48
4		59		63		65		42		65		49(1)
5		74		50		59		55		46		51
6		75		63		54		63		54		46
7		67		69		65		55		59		54
8		54		56		63(7)		64		59		59
Spec. Ed.												42
9		147		138		158(1)		158(3)		167(2)		137
10		113		124		118		139(3)		146		158(1)
11		93		92		104		107		108		122
12		76		88		88		101		97		105
TOTAL		968		928		952		965		952		976

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Enfield Graded

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	42	3	31	4	26	3	30	6	35	2	15	1
2	43		33	12	29	5	24	7	27	5	20	4
3	42		37	1	33	9	30	7	27	5	18	7
4	44		36		31	4	33	9	31	6	18	6
5	45		42		29	4	37	6	34	10	19	7
6	42		44		37	5	30	5	32	7	28	8
7	35		41		47	4	42	7	31	123	23	20
8	41		37	1	40	2	47	7	47	6	16	17
Spec. Ed.	11		10		11							
9	33		39	8	35	3	40	1	45	5	26	9
10	52	2	28	11	33	6	30	5	31	2	32	7
11	40	1	43	14	28	12	35	7	34	1	17	3
12	37		35	8	40	10	26	10	28	5	24	
TOTAL	505	6	456	59	419	67	404	77	402	177	256	89

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Everetts

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		89		96		76		83		56		57
2		66		78		83		63		66		46
3		86		70		65		77		62		66
4		67		91		58		62		67		56
5		82		69		69		55		57		72
6		70		73		58		61		50		47
7		67		67		64		51		60		50
8		71		70		56		52		36		55
Spec. Ed.						18		16		24		11
9												
10												
11												
12												
TOTAL		598		614		547		520		478		460

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

[Raleigh News & Observer, 2/12/69]

HALIFAX ANNOUNCES SCHOOL PLAN

HALIFAX—The Halifax County Board of Education announced a desegregation plan Tuesday affecting its 18 public schools, four of which are predominantly white and 14 all-Negro.

C. M. Moore Jr., chairman, said the plan resulted from demands by the U.S. Department of Justice in July, 1968, that a dual system be eliminated and that the Halifax schools be in full compliance with the Civil Rights Act of 1964 at the beginning of the 1969-70 school year.

Halifax was ordered to submit its plan to the Department of Justice not later than March 15, 1969.

The plan specifies that any student assigned to a school where there is less than 15 per cent of his race or less than 15 per cent of a race different from his own, may be assigned to a school where such a situation does not exist.

A student desiring such a transfer must make a "timely-request" and furnish his own transportation to the school to which he transfers.

Staff and faculty, according to the plan, shall be assigned as far as possible to constitute the same ratio between white and Negro races as exists in student body.

The plan further states, however, that no school faculty shall be comprised of less than 12 per cent of either Negro or white.

The dual bus system now used to transport students to and from school will be eliminated. The buses will be operated without regard to race.

There are approximately 10,655 students in the Halifax school system, including 8,196 Negro students, 2,357 whites and 102 Indian students. There are 447 teachers, including 322 Negro, 123 white and two Indian.

[News & Observer, 2/14/69]

RUSH TO THE REAR

One of the most astute comments so far on the Scotland Neck school separation movement came from a local foe who called it "a step backward when we should be going forward."

Instead of striving to strengthen all Halifax County schools through consolidation, Scotland Neck people supporting an independent school unit for their town limit a desire for better education to municipal boundaries. They want town money confined to town schools. Presumably, the rest of Halifax could just go begging.

Shrewd strategists are at work arguing through the General Assembly the bill permitting a local referendum on the separate unit idea. They claim that there's no hope for passage of a countywide school tax, while Scotland Neck people probably would support a town levy. And as Rep. Thorne Gregory said on behalf of the referendum bill he introduced, "the people of Scotland Neck know what's best for us."

What Scotland Neck separatists obviously believe best for them is an educational island dominated by whites. Statistics make this clear. The Halifax County school system now has about 8,100 Negroes and 2,300 whites; a Scotland Neck unit would have some 736 whites and 193 Negroes. The county school system must fully integrate by September. Undoubtedly, Scotland Neck would prefer to do its own integrating. By creating a sharper racial imbalance in municipal schools, the town would promote a sharper imbalance—in reverse—out in the county.

The forgotten ones in this matter are the children who would remain in the Halifax County school system. If Scotland Neck pulls out, county schools will be left with just 37 per cent of Halifax's taxable property from which to draw support for educating roughly 67 per cent of Halifax children. The State, furthermore, would have to subsidize this inequity by footing a $22,000 bill for Scotland Neck's school administrative offices.

The separation bill got through the House on Wednesday, aided by an incredible argument that since it was local legislation, balking at it would be a personal insult to the sponsor. Surely the Senate will display a more responsible concern over this measure, which is local in name only and far removed from the usual pay hike or dog tax proposal. It suggests a precedent which truly would be a rush to the rear, and North Carolina could pay for it with inferior county schools and deteriorating race relations.

[Raleigh News & Observer, February 22, 1969]

NEW STATE POLICY?

If the State Senate approves the Scotland Neck school bill, it will do more than separate the present Halifax County School System into two units—with most of the county's white pupils in a new Scotland Neck unit. Indisputably the Senate also will set a new State policy contrary to the desirable trend toward consolidation and contrary to the spirit if not the letter of federal law.

This is no simple matter of acceding to a local government request, of letting the people involved have the kind of school structure they want. The State legislature will be giving official endorsement and $22,000 in State funds for the fragmentation of a school system now so small it is lacking in some aspects of educational soundness and efficiency.

The example will not be lost on other school systems confronted with similar racial problems. They will seek —and how can the legislature deny them?—the same course of least resistance, the same creation of new school units with less racial accommodation. And in each instance the State will be footing the bill for new administrative costs and putting its stamp of acceptance on the educational inefficiency and racial ill will created.

This would be new State policy of using the legislature to evade national policy. If it failed—if the courts struck it down—it would create new and unnecessary

enmity within our governmental systems. If it succeeded, it would encourage more racial apartness and distrust. Negro North Carolinians would be given an object lesson in White Power, and a mocking example of Law and Order with Justice.

The Halifax County school system may have special problems. The legislature could provide the education tools and money to help meet them. It still could postpone action until it researched such possible alternatives. The Scotland Neck school bill is a change in State policy, with far reaching consequences. It ought not to be enacted without further search for a wiser, less harmful answer to the concerns of Scotland Neck people.

OFFICE COPY

FILED
DEC 3 1971
E. ROBERT SEAVER, CLERK

APPENDIX

Vol. III (pp. 788-1155)

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,
Petitioner,

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

No. 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioners.

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT ON APPEALS FOR THE FOURTH CIRCUIT

PETITIONS FOR WRITS OF CERTIORARI FILED APRIL 22, 1971 AND MAY 20, 1971
CERTIORARI GRANTED OCTOBER 12, 1971

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,
Petitioner,

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

No. 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioners.

—v.—

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT ON APPEALS FOR THE FOURTH CIRCUIT

INDEX TO APPENDIX

	Page
Certified copy of docket entries	1
Complaint	26
Plaintiff's notice of motion and motion for a preliminary injunction	39
Plaintiff's notice of motion and motion for leave to join an additional party defendant and to file an amended complaint	41
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	43
Answer of all defendants with the exception of Halifax County Board of Education	47

	Page
Response to plaintiff's motion for a preliminary injunction, motion for leave to join an additional party defendant, and motion to file an amended complaint	51
Answer of Halifax County Board of Education	56
Notice of hearing by Judge Butler	60
Order that Clerk file amended complaint and U. S. Marshal serve copies upon defendants	61
Amended complaint	62
Answer to amended complaint by all defendants except Halifax County Board of Education	69
Answer of defendant Scotland Neck Board of Education	72
Transcript of hearing on August 21-22, 1969	76
Deposition of Ferd Harrison	96
Deposition of C. M. Moore, Jr.	117
Deposition of Craig Phillips	153
Deposition of W. Henry Overman	218
Deposition of Henry Harrison	365
Deposition of Frank P. Shields	419
Deposition of Aubrey Powell	460
Deposition of F. Boyd Bailey	493
Affidavit of J. L. Pierce	580
Plaintiff's Exhibit #1	585
Plaintiff's Exhibit #2	587
Plaintiff's Exhibit #3	679
Plaintiff's Exhibit #5	681
Plaintiff's Exhibit #7	683
Plaintiff's Exhibit #8	684
Plaintiff's Exhibit #9	686
Plaintiff's Exhibit #10	687
Plaintiff's Exhibit #11	688
Plaintiff's Exhibit #13	727
Plaintiff's Exhibit #14	746
Plaintiff's Exhibit #17	759
Plaintiff's Exhibit #18	761
Order dismissing certain defendants	788
Memorandum opinion of Judge Larkins	790
Amended answer of the Scotland Neck City Board of Education	793

Page

Motion of defendant Scotland Neck City Board of Education that order be entered modifying temporary injunction ... 798

Order allowing Scotland Neck City Board of Education to use private donations for expenses and fees incurred ... 800

Motion of Robert Morgan, Attorney General of North Carolina, to intervene in this action in behalf of the state of North Carolina, as party defendant ... 801

Order allowing intervention of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina ... 804

Answer of Robert Morgan, Attorney General of North Carolina, in behalf of the state of North Carolina ... 806

Order allowing motion of Halifax County to be dismissed as to the question of constitutionality of the Act creating Scotland Neck Unit ... 812

Answer to plaintiff's interrogatories by defendant Halifax County Board of Education ... 814

Memorandum opinion and order of Judge Larkins ... 923

Order amending order of 11/24/69 ... 925

Motion for leave to intervene by additional plaintiffs Pattie Black Cotton and Edward M. Francis, public school teachers of Halifax County, and others ... 926

Transcript of hearing on December 17, 1969 ... 931

Memorandum opinion and order allowing motion to intervene ... 994

Complaint in intervention ... 1000

Answer of defendant Scotland Neck City Board of Education to the complaint in intervention ... 1029

Answer to complaint in intervention by board of county commissioners of Halifax County ... 1046

Answer of defendant Halifax County Board of Education to the complaint in intervention ... 1051

Order that motion of defendants that effective date of implementation be delayed until on or about 6/1/70 is allowed; "Proposed Interim Plan" of defendant Halifax County Board of Education be implemented by board no later than 6/1/70 ... 1058

Opinion and order that further implementation of Chapter 31 of the 1969 Session Laws of North Carolina is permanently enjoined ... 1062

Page

Judgment that Chapter 31 of the 1969 Session Laws of North Carolina creating Scotland Neck Administrative Unit is declared to be unconstitutional and null and void. Defendants, their respective officers, agents, etc., are permanently enjoined from all further proceedings pursuant to said statute 1085

Amended order, amending order of district court dated 5/18/70 1086

Notice of appeal by Scotland Neck City Board of Education 1087

Notice of appeal to the United States Court of Appeals for the Fourth Circuit by Robert Morgan, Attorney General of North Carolina, North Carolina State Board of Education, and Dr. A. Craig Phillips, State Superintendent of Public Instruction 1088

Motion of defendant Halifax County Board of Education for further amendment to "Proposed Interim Plan" 1089

Plaintiff's response to defendant's motion to amend interim desegregation plan approved May 19, 1970 1092

Defendant Scotland Neck City Board of Education's Answer to motion of Halifax County Board of Education 1094

Plaintiffs' in intervention opposition to defendant's motion to amend interim desegregation plan approved May 19, 1970 1096

Order denying motion of defendants to amend the order of May 19, 1970, with respect to the operation of Scotland Neck School and Brawley School (Judge Larkins) 1098

Affidavit of W. Henry Overman dated September 15, 1970 (Enrollment Statistics) 1100

Affidavit of W. Henry Overman dated December 2, 1970 (Enrollment Statistics) 1102

Opinion and judgment of the United States Court of Appeals for the Fourth Circuit dated March 23, 1971 1104

Opinion of the United States Court of Appeals for the Fourth Circuit in *Wright* v. *Council of the City of Emporia*, March 23, 1971 1119

Order staying the mandate dated April 21, 1971 1151

Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-130 1152

Order of Supreme Court of October 12, 1971 allowing certiorari in No. 70-187 1152

Affidavit of W. Henry Overman dated October 14, 1971 (Enrollment Statistics) 1153

Halifax County map indicating the school districts and different schools 1155

[Caption Omitted]

ORDER

LARKINS, District Judge:

This cause coming on to be heard before the Court on a motion for a preliminary injunction filed by the plaintiff pursuant to the provisions of Sections 407(a) and (b) of the Civil Rights Act of 1964, as codified, 42 U.S.C.A. §§ 2000c-6(a) and (b) seeking to restrain the defendants from giving any force or effect to the provisions of Chapter 31 of the North Carolina Session Laws of 1969, an Act to establish a separate administrative unit for the operation of the public schools of the Town of Scotland Neck, North Carolina; and due notice having been given to the defendants; and the Court having considered the evidence and the argument of counsel and being fully advised in the premises; and it appearing to the Court that effectuation of the terms of the Act will result in the operation of the schools of Scotland Neck, North Carolina, and Halifax County, North Carolina, on a racially discriminatory basis to the irreparable damage of the United States and the Negro pupils of Halifax County; and it further appearing to the Court that no injunctive relief as to effectuation of the provisions of Chapter 31 is being sought against the defendant Halifax County Board of Education; and that the defendants Ferd L. Harrison, as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr., as members of the Board of Commissioners of the Town of Scotland Neck, and the Town of Scotland Neck, a body corporate, are not proper parties to this action;

It is, therefore, ORDERED, ADJUDGED and DECREED:

THAT the motion to dismiss filed on behalf of the defendants Ferd L. Harrison, as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr., as members of the Board of Com-

missioners of the Town of Scotland Neck, and the Town of Scotland Neck, a body corporate, be, and the same hereby is allowed; and

THAT the defendant Scotland Neck City Board of Education and its officers, agents, employees and successors are hereby enjoined from giving any force or effect to the provisions of Chapter 31 and from taking any action pursuant to the provisions of Chapter 31 pending a final determination on the merits of the issues raised in the present action; and

THAT pursuant to the provisions of Rule 65(c) of the Federal Rules of Civil Procedure, no security shall be required of the plaintiff, United States of America; and

THAT this ORDER shall become effective as of 12:00 Noon on Monday, August 25, 1969; and

THAT a Memorandum Opinion subsequently will be filed in this action; and

THAT the Clerk shall serve copies of this ORDER upon all counsel of record, and the defendants.

Let this ORDER be entered forthwith.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

/s/ Algernon L. Butler
ALGERNON L. BUTLER
United States District Judge

Raleigh, North Carolina
August 25, 1969

[Caption Omitted]

MEMORANDUM OPINION

LARKINS, District Judge:

This Court entered its ORDER on August 25, 1969, effective at 12:00 noon. The Clerk served copies of said ORDER upon all defendants and counsel of record.

Pursuant to said ORDER this MEMORANDUM OPINION is filed in support of said ORDER and is included therein by reference.

This cause coming on to be heard before the United States District Judges for the Eastern District of North Carolina, and being heard upon the motions of plaintiffs and additional plaintiffs for a preliminary injunction and for a declaratory judgment; and due notice having been given to all defendants; and the Court having considered the evidence, the stipulations, the briefs and arguments of counsel, and being fully advised in the premises, makes the following:

FINDINGS OF FACT

1. On March 3, 1969, the General Assembly of North Carolina ratified a measure designated Chapter 31, Session Laws of North Carolina 1969, creating the Scotland Neck City Administrative Unit in Halifax County to operate the public schools in said unit; providing that all public school property located within the unit should become the property of the unit; providing for a supplemental tax levy, and directing a special election to authorize the establishment of said unit and the levying of said tax. The voters approved said proposals.

2. The Board of Education of the Scotland Neck City unit permits transfers of students in and out of said units. Scotland Neck City has established a tuition charge of $100.00 a year for the first child in a family, $25.00 for the second child, $25.00 for the third child, and each subsequent child per family free, for all students transferring into said unit.

3. During the school year 1968-69, all the public schools of Halifax County were operated by the Halifax

County Board of Education. There was a total of 10,655 students. The racial composition of the county school system was approximately as follows: White, 2,357 (22%); Negro, 8,196 (78%), and Indian, 102.

4. The Scotland Neck City unit has approximately 695 *resident* students: White, 399 (57.4%); Negro, 296 (42.6%). The school facilities within the unit will accommodate approximately 1,000 students. Since the creation of the City unit under the 1969 Act, 350 Whites, and 10 Negroes have transferred from the county schools into the City unit; 44 Negroes in the eleventh and twelfth grades have transferred from the city to the Brawley High School in the county system. The net effect on the City unit for the school year 1969-70 is as follows: White, 759 (74%); Negro, 262 (26%).

5. The racial composition of the county school system as a result of the creation of the administrative unit, and taking into consideration the net effect of the transfers in and out of the systems, is as follows: White, 1,598 (17%); Negroes, 8,186 (83%); Indian, 102.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the parties and of the subject matter of this proceeding.

2. Without determining the constitutionality of Chapter 31 of the 1969 Session Laws of North Carolina, the Act in its application creates a refuge for white students, and promotes segregated schools in Halifax County.

3. The Act impedes and defeats the Halifax County Board of Education from implementing its plan to completely desegregate all of the public schools in Halifax County by the opening of the school year 1969-70.

4. Unless the defendants are enjoined, the plaintiffs will suffer immediate and irreparable injury by the deprivation of their constitutional rights.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Raleigh, North Carolina
August 25, 1969

[Caption Omitted]

AMENDED ANSWER

The defendant, The Scotland Neck City Board of Education, a body corporate, answering the Amended Complaint, alleges and says:

1. That as to the allegations contained in Paragraph 1, Claim One, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

2. That the allegations contained in Paragraph 2 of Claim One are admitted.

3. That as to the allegations contained in Paragraph 3, Claim One, it is admitted that the defendant Halifax County Board of Education (hereinafter the Halifax County Board) is a body corporate, organized and existing under the laws of the State of North Carolina, and it has a duty under North Carolina law to operate a public school system in Halifax County, North Carolina other than in the Town of Scotland Neck.

4. That the allegations contained in paragraph 4 of Claim One are admitted.

5. That the allegations contained in Paragraph 5 of Claim One are admitted.

6. That the allegations contained in Paragraph 6 of Claim One are admitted.

7. That as to the allegations contained in Paragraph 7, Claim One, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

8. That the allegations contained in Paragraph 8 of Claim One are admitted.

9. That the allegations contained in Paragraph 9 of Claim One are admitted.

10. That the allegations contained in Paragraph 10 of Claim One are admitted.

11. That the allegations contained in Paragraph 11 of Claim One are admitted.

12. That as to the allegations contained in Paragraph 12 of Claim One it is admitted that the Scotland Neck

Board has hired a Superintendent of Schools and is prepared to open its schools for students on August 28, 1969, and it is further admitted that the vast majority of the students who will attend the schools of the Scotland Neck City Administrative Unit during the 1969-70 school year attended schools operated by the Halifax County Board during the previous year; all other allegations contained in Paragraph 12 are denied.

13. The allegations and averments contained in Paragraph 13, Claim One are denied.

14. The allegations and averments contained in Paragraph 14, Claim One are denied.

15. The allegations and averments contained in Paragraph 15, Claim One are denied.

16. It is admitted that unless restrained by order of the Court this answering defendant will continue to give full force and effect to the provisions of Chapter 31; all other allegations contained in Paragraph 16 are denied.

17. That as to the allegations contained in Paragraph 17 of Claim Two, which realleges Paragraphs 1, 2, 3, 7 and 8 of the Claim One, this defendant answers said paragraph in the same manner as above.

18. That as to the allegations contained in Paragraph 18, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

19. That as to the allegations contained in Paragraph 19, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

20. That as to the allegations contained in Paragraph 20, Claim Two, the answering defendant is not sufficiently informed concerning the averments contained therein from which to form a belief and hence denies same.

21. The allegations and averments contained in Paragraph 21, Claim Two are denied.

22. The allegations and averments contained in Paragraph 22, Claim Two are denied.

FIRST FURTHER ANSWER

For a First Further Answer to the Plaintiff's amended complaint this Defendant alleges and says:

1. The Statute (North Carolina Session Laws 1969, Chapter 31) hereafter called the "Statute," the constitutionality of which is here challenged by the Plaintiff, followed a long established North Carolina legislative precedent and pattern of the formation of a special administrative school unit within a county consisting usually of a municipality. There are in North Carolina, exclusive of Scotland Neck, fifty-two special municipal administrative school units.

2. The Statute created a special school administrative unit; the boundaries of which were designated as the municipal boundaries of the Town of Scotland Neck. Within the geographic boundaries of the Town of Scotland Neck there now reside approximately 751 students of school age; 56.86 percent of which are white and 43.14 percent of which are negro. Classroom facilities within the town limits can accommodate approximately 812 students; 784 of which are accommodated by permanent facilities and 28 of which are accommodated by a mobile classroom.

3. The Statute provides, as conditions precedent to the formation of the unit, a vote of the people in Scotland Neck approving both the formation of the unit and the imposition of a school tax of 50 cents on the dollar of taxable property valuation in the town.

4. By election held pursuant to the Statute, the people of Scotland Neck approved both the formation and the imposition of the special school tax.

5. The resident school population is sufficient to constitute an efficient separate school administrative unit, and the special tax funds will enable the Defendant to offer to its resident students an educational system which is greatly superior to that heretofore enjoyed by them and superior to that which would be available to them if there were no such tax. Defendant made ar-

rangements to operate such an improved school system in Scotland Neck for the school year 1969-1970.

6. On August 25, 1969 there was issued a temporary injunction in this cause, preventing Defendant from taking any further steps in connection with the operation of a school unit until the final determination of the merits of this cause.

7. The single issue in this case is the constitutionality of the Statute. The issue is not the propriety or the legality of whatever might, from time to time, be the plan or plans of operation under the Statute.

8. It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court.

WHEREFORE, this Defendant respectfully prays that:

1. The Court declare to be constitutional Chapter 81 of the 1969 Session Laws of North Carolina;

2. The Court dissolve the temporary injunction heretofore issued in this cause on the 25th day of August, 1969;

3. The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant to the Court and for the hearing of any objection that may be filed thereto.

C. KITCHIN JOSEY

/s/ William T. Joyner
WILLIAM T. JOYNER

/s/ Walton K. Joyner
WALTON K. JOYNER
Attorneys for the defendant, Scotland Neck City Board of Education, a body corporate

[Caption Omitted]

MOTION

Now comes the defendant, the Scotland Neck City Board of Education, a body corporate, by and through its attorney, C. Kitchin Josey, and respectfully shows unto the Court:

1.

That at 12 o'clock noon on the 25th day of August, 1969, an order was entered in this cause enjoining this defendant "from taking any action pursuant to the provisions of Chapter 31 (of the 1969 Session Laws of North Carolina) pending a final determination on the merits of the issues raised in the present action."

2.

That prior to the entering of the above mentioned order this defendant in its official capacity and in accordance with the laws of the State of North Carolina under its then policy accepted students that lived outside the school administrative unit boundaries on a tuition basis receiving approximately $11,656.53 from the parents of such tuition students. Of this amount $2,970.66 was expended by this defendant for obligations incurred prior to the entering of the above mentioned order.

3.

That the defendant, the Scotland Neck City Board of Education, desires to repay in full the parents of the students who have previously paid in these tuition funds.

4.

That the Scotland Neck City Board of Education has heretofore incurred certain legal expenses in connection with the defense of this cause and the said defendant expects to incur certain additional expenses until this matter is finally determined.

5.

That this defendant has been offered certain private donations from citizens in this area and particularly the citizens of the Town of Scotland Neck for the purpose of repaying the parents of the tuition students and for the purpose of defraying expense of defending this law suit.

WHEREFORE, this defendant prays the Court that an order be entered modifying the temporary injunction order of August 25, 1969, to the effect that the defendant, the Scotland Neck City Board of Education, be allowed to receive donations from private sources and to use such funds, together with the tuition funds now in its hands, for the repayment of the amounts heretofore paid by parents of tuition students, and further that said Board be permitted to use said privately donated funds for the purpose of legal expenses and fees incurred and to be incurred until this matter is finally determined.

This the 12th day of September, 1969.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY, William T. Joyner and Walton K. Joyner, Attorneys for the Scotland Neck City Board of Education

[Caption Omitted]

ORDER

This cause coming on to be heard on a Motion by the defendant, the Scotland Neck City Board of Education, a body corporate, for a modification of the order of preliminary injunction heretofore entered by this Court at 12 o'clock noon on August 25, 1969, to the effect that certain funds now in said defendant's hands and certain private donations be authorized for use by said defendant to repay certain parents of tuition students and for authority to use said privately donated funds for the purpose of defraying legal expenses in connection with the defense of this cause;

And it appearing to the Court that the requested modification of said temporary injunction is proper and said Motion should be allowed;

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED that the defendant, the Scotland Neck City Board of Education, be allowed to receive donations from private sources and to use such funds, together with the tuition funds now in its hands, for the repayment of the amounts heretofore paid by parents of tuition students, and further that said Board be permitted to use said privately donated funds for the purpose of legal expenses and fees incurred and to be incurred until this matter is finally determined.

IT IS FURTHER ORDERED that the Clerk shall serve copies of this Order upon all counsel of record.

Let this Order be entered forthwith.

/s/ Algernon L. Butler
CHIEF UNITED STATES
DISTRICT JUDGE

/s/ John D. Larkins, Jr.
UNITED STATES
DISTRICT JUDGE

[Caption Omitted]

MOTION OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, TO INTERVENE IN THIS ACTION IN BEHALF OF THE STATE OF NORTH CAROLINA, AS PARTY DEFENDANT.

Robert Morgan, Attorney General of North Carolina, in behalf of the State of North Carolina, hereby moves the Court for leave to intervene in this action in order to assert the defenses of the State of North Carolina, as set forth in the proposed Answer of which a copy is hereto attached, on the grounds and for the reasons, as follows:

1. That Applicant, Robert Morgan, is the duly elected and qualified Attorney General of the State of North Carolina, and makes this application to intervene in this action in behalf of said State of North Carolina; that North Carolina is one of the States that compose the United States of America and exercises such powers and duties as set forth in its Constitution and Laws enacted by its General Assembly and in accordance with the Constitution of the United States.

2. That this motion to intervene in this action by the Attorney General of North Carolina is made in behalf of said State of North Carolina (hereinafter referred to as: Applicant) pursuant to the Federal Rules of Civil Procedure, the same being Rule 24; that this application is made as a matter of right in that the constitutionality of one of the acts or statutes of said State is involved in said action; that applicant may be bound by any judgment entered by the Court in this action, and applicant is entitled to adequate representation on the question of the constitutionality of said State act or statute; that applicant is also entitled to intervene in this action in the discretion of the Court and as a permissive intervention in that the plaintiff relies upon the allegation of the unconstitutionality of an act or statute of this State as a part of its claim; that there is a common question of law and fact as the constitutionality of said State law or

act is drawn into question and if said intervention is allowed, as herein requested, the same will not unduly delay or prejudice the adjudication of the rights of the parties.

3. That the act of the General Assembly drawn in question as to its constitutionality in this action is Chapter 31 of the Session Laws of 1969, which became effective on the 3rd day of March, 1969; that a copy of said act is attached to the amended complaint of the United States of America and is hereby referred to as a part of this motion; that the plaintiff alleges that said act and its implementation is in violation of the Fourteenth Amendment to the Constitution of the United States and this is denied by the applicant; that applicant, if allowed to intervene in this action, will allege and assert that said act is valid and that its result is to establish a city board of education similar to many other city boards of education throughout the State of North Carolina and which have been established for many years; that if said act is held by the Court to be invalid and unconstitutional the status and establishment of all other boards of education, both city and county, will be put in jeopardy.

4. That applicant accepts the status of this action as heretofore developed but reserves the right to except to any evidence orders, rulings or proceedings that may be made or entered, or heretofore made and entered, contrary to the constitutional validity of said act or statute, and the right to argue in support of the validity of said act or statute; that applicant agrees to be bound by the temporary injunction heretofore entered in this cause but reserves the right to move that same be vacated by the Court.

5. That annexed hereto, in accordance with Rule 24 (c) of the Federal Rules of Civil Procedure is a proposed pleading entitled: "Answer of Robert Morgan, Attorney General of North Carolina, in behalf of the State of North Carolina, in Intervention." The applicant moves the Court that said pleading be deemed the appearance of applicant in support of the constitutionality of the act of the General Assembly of North Carolina, and in opposition to all pleadings and motions of the parties

hereto that have been or may be made herein insofar as said pleadings and motions are based on the contention that said act of the General Assembly of North Carolina is in any respect, or in any application, unconstitutional.

WHEREFORE: Applicant prays the Court that an order be entered herein allowing applicant to intervene in this action as a party defendant and that his proposed answer be filed as a pleading in this action; that this motion be brought on before the Court for hearing on October 24, 1969, at the Federal Courtroom in Raleigh, North Carolina, or at such other time as may be convenient and as ordered by the Court.

/s/ Robert Morgan
Attorney General of
North Carolina

/s/ Ralph Moody
Deputy Attorney General of
North Carolina
P. O. Box 629
Justice Building
Raleigh, North Carolina 27602

[Caption Omitted]

ORDER ALLOWING INTERVENTION OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, IN BEHALF OF THE STATE OF NORTH CAROLINA.

This cause coming on to be heard upon the Motion of the Attorney General of North Carolina that he be allowed to intervene in this action as an Intervenor-Defendant in behalf of the State of North Carolina; and

It appearing to the Court that there is involved in this action a question as to the validity and constitutionality of an Act of the General Assembly of North Carolina; that this is a question of public interest throughout the State and involves the right of the State to create a public school administrative unit; that it is a legal possibility that the State of North Carolina may be bound by the judgment entered by the Court between the parties plaintiff and defendants as this action now stands; that there is a common question as to the validity of a similar statute involved in the Warren County case which is consolidated with this case; that the defendants in this action rely upon the validity of Chapter 31 of the Session Laws of 1969, enacted by the General Assembly of North Carolina:

IT IS, THEREFORE, ORDERED AND ADJUDGED BY THE COURT: That as a matter of right, or in the alternative, in the discretion of the Court, as a permissive right, the Attorney General of North Carolina, in behalf of the State of North Carolina, be, and he is hereby allowed, to intervene in this action as a party intervenor-Defendant, and that he be allowed to file his Answer which is attached to the Motion herein filed.

IT IS FURTHER ORDERED BY THE COURT: That said Intervenor-Defendant shall accept the status of this action as it now stands and shall be bound by the Temporary Restraining Order heretofore entered in this cause with the right to adopt the objections, exceptions and motions in this cause that have heretofore been en-

tered by the other defendants and to support the validity of Chapter 31 of the Session Laws of 1969, as enacted by the General Assembly of North Carolina.

IT IS FURTHER ORDERED BY THE COURT: That the Plaintiff be allowed to file such responsive pleading to the Answer of the Intervenor-Defendant as it shall deem to be advisable.

This the 31 day of October, 1969.

/s/ Algernon L. Butler
Chief Judge of the District Court of the United States for the Eastern District of North Carolina

/s/ John D. Larkins, Jr.
Judge of the District Court of the United States for the Eastern District of North Carolina

A True Copy, Teste:
SAMUEL A. HOWARD
Clerk

By /s/ [Illegible]
Deputy Clerk

[Caption Omitted]

ANSWER OF ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, IN BEHALF OF THE STATE OF NORTH CAROLINA—INTERVENOR-DEFENDANT.

The Intervenor-Defendant, Robert Morgan, Attorney General of North Carolina, in behalf of the State of North Carolina, answering the original and amended complaints, filed herein, alleges:

ORIGINAL COMPLAINT

1. The Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of Paragraph 1 of the original complaint, and, therefore, denies the same.

2. The allegations of Paragraph 2 of the original complaint are denied.

3. The allegations of Paragraph 3 of the original complaint are admitted.

4. The allegations of Paragraph 4 of the original complaint are admitted.

5. The allegations of Paragraph 5 of the original complaint are admitted.

6. That the Intervenor-Defendant is not concerned with the matters alleged in Paragraph 6 of the original answer and neither admits or denies the same.

7. The Intervenor-Defendant is not concerned with the matters alleged in Paragraph 7 and is not required to answer same.

8. The Intervenor-Defendant is not concerned with the matters alleged in Paragraph 8 and is not required to answer same.

9. The allegations of Paragraph 9 of the original complaint are admitted.

10. The Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of Paragraph 10 of the original complaint, and, therefore, denies the same.

11. The allegations of Paragraph 11 are admitted.

12. The Intervenor-Defendant for lack of knowledge or information to form a belief as to the truth of Paragraph 12 of the original complaint denies the same.

13. The allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are denied.

15. The allegations of Paragraph 15 are denied.

CLAIM TWO

16. That Paragraphs 1, 2, 3, 6 and 8 of this Answer are re-alleged as Answers to this Claim and incorporated herein by reference as if fully set forth and alleged herein.

17. For lack of knowledge or information sufficient to form a belief as to the truth of allegations 17, they are denied.

18. The Intervenor-Defendant alleges that he is not required to answer Paragraph 18 of the original complaint since they are concerned with matters of administration.

19. Answering the allegations of Paragraph 19 of the original complaint the Intervenor-Defendant alleges that neither the State, the State Board of Education, or the State Superintendent of Public Instruction has any legal authority to fix attendance areas, assign pupils to the various facilities of the public school system, or to adopt or implement plans of desegregation; and except as here alleged said paragraph is denied.

20. On information and belief, said paragraph is denied.

21. The allegations of Paragraph 21 are denied.

AMENDED COMPLAINT

1. Answering Paragraph 1 of the amended complaint, it is admitted that the Attorney General of the United States attached to the original complaint his certification as therein shown; that it is a condition precedent to the bringing of this action that there shall be secret complaints made to the Attorney General of the United States; that any action based upon secret complaints is

void, invalid and unconstitutional and a violation of the due process clause and the equal protection of the law clause of the Fourteenth Amendment of the Constitution of the United States; that the provisions of 42 USC 2000e-6(a) and (b) are unconstitutional and void in that said provisions purport to confer jurisdiction upon Federal Courts to entertain actions based upon secret complaints, discriminate in favor of one ethnic group as against another ethnic group by furnishing government attorneys to one group as against another group, furnish costs and expenses in favor of one group as against another group, and thus create an invidious discrimination in favor of one group of citizens as against another group of citizens in violation of the Fourteenth Amendment of the Constitution of the United States; and except as herein alleged said paragraph 1 of amended complaint is untrue and is denied.

2. The allegations of Paragraph 2 of the amended complaint are untrue and are denied.

3. The allegations of Paragraph 3 are admitted.

4. The allegations of Paragraph 4 are admitted except it is denied that such action should lawfully be maintained.

5. The allegations of Paragraph 5 are admitted.

6. The allegations of Paragraph 6 are admitted.

7. That the Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7, and, therefore, denies the same.

8. The allegations of Paragraph 8 are denied for lack of knowledge or information sufficient to form a belief as to the truth of same.

9. The allegations of Paragraph 9 are admitted.

10. The allegations of Paragraph 10 are admitted.

11. The allegations of Paragraph 11 are admitted.

12. Answering the allegations of Paragraph 12 on information and belief, Intervenor-Defendant admits that the Scotland Neck City Board of Education hired a Superintendent of Schools and prepared to open its schools for the school year beginning in the Fall of 1969; that

except as herein admitted the allegations of Paragraph 12 are denied.

13. The allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are untrue and are denied; further answering said paragraph, Intervenor-Defendant alleges that it is untrue that the size and pupil enrollment should control the size of the educational administrative unit; that large educational units with marching bands, football teams, gymnasiums and many social and athletic events and numerous extracurricular activities are desired by those who still worship the outworn creed and bankrupt philosophy of so-called progressive education in which system actual imparting of knowledge and instruction of the pupil is lost in the shuffle; that in many cases the smaller unit furnishes better financing, better instructors and graduates a student of high caliber who completes his college education; it is further alleged that the people have the constitutional right to determine the type of administrative unit they desire and not theoretical so-called educators who desire a bureaucratic, dictatorial public school system under their complete control; that the Federal Government has no constitutional right, under the guise of constitutional interpretation, to determine the type and size of the school administrative unit that the people of the State shall have and use.

15. The allegations of Paragraph 15 are untrue and are denied; further answering said paragraph, the Intervenor-Defendant alleges that Chapter 31 of the Session Laws of 1969, is a constitutional and valid act of the General Assembly of North Carolina and is within the scope and authority of said General Assembly; that county and city boards of education as the proper agencies of administering the public schools of the State have been in force and effect since the School Machinery Acts of 1933 and 1935 and there is some 160 to 180 such administrative units established in the State; that there are administrative school units in the State that are as small, and some slightly larger, as the Scotland Neck City Administrative Unit and they have operated for some years; that the Scotland Neck City Board of Education

has never had the chance to administer its school system and constitutional attack on its proposed or future administration is nothing but speculation and conjecture; that no constitutional attack of this nature can be made until the practical results of such administration are available; that if Chapter 31 of the Session Laws of 1969, is unconstitutional and invalid then the stability of every school administrative unit in the State of North Carolina is endangered and subject to attack if the members of the black race are dissatisfied and displeased with its boundaries and enrollment limitations and it will take a Federal decree to settle every boundary and attendance area; it is again denied that Chapter 31 of the Session Laws of 1969, is unconstitutional and invalid or that it violates any provision of the Fourteenth Amendment to the Constitution of the United States and it is alleged that those who pay the largest part of the taxes that support the public school system of the State should have some voice in public school administration.

16. The allegations of Paragraph 16 are untrue and are denied.

CLAIM TWO

17. That the answers to Paragraphs 1, 2, 3, 7 and 8 of Claim One of this Amended Complaint are here realleged in this Claim and are made a part hereof by reference.

18. That the Intervenor-Defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18, and, therefore, denies the same.

19. That the allegations of Paragraph 19 relate to the Halifax County Board of Education and this Intervenor-Defendant does not know what alternative methods of pupil assignment are available for this county unit, and, therefore, denies said Paragraph 19.

20. That Intervenor-Defendant does not know what the Halifax County School Administrative Unit has failed and refused to do nor what plan of desegregation it has failed to adopt, and, therefore, denies said paragraph 20.

21. The allegations of Paragraph 21 are untrue and are, therefore, denied.

22. The allegations of Paragraph 22 are untrue and are denied.

WHEREFORE: having fully answered, the Intervenor-Defendant prays the Court:

(a) That Chapter 31 of the Session Laws of 1969, enacted by the General Assembly of North Carolina, be declared to be constitutional and valid.

(b) That this action be dismissed and the Temporary Restraining Order heretofore entered in this cause be dismissed.

(c) That such other and further relief be granted by the Court as may be proper and just.

/s/ Robert Morgan
Attorney General of
North Carolina

/s/ Ralph Moody
Deputy Attorney General of
North Carolina
P. O. Box 629
Justice Building
Raleigh, North Carolina 27602

[Caption Omitted]

ORDER

This cause coming on to be heard before the Court on a motion for a preliminary injunction filed by the plaintiff seeking to restrain the defendants from giving any force or effect to the provision of Chapter 31 of the North Carolina Session Laws of 1969, an Act to establish a separate unit for the operation of the public schools of the town of Scotland Neck, North Carolina and there being also before the Court a motion by the defendant, Halifax County Board of Education, that it be dismissed from that portion of this action dealing with the constitutionality of the Scotland Neck Act as said defendant was not a party to the creation of said Scotland Neck Unit; and it appearing to the Court that said defendant, since it was not a party to the creation of said Act, should not be put to the expense of defending this action in this Court or in any subsequent appeals, if any there be, as said defendant is already before the Court charged with violation of the Civil Rights Act and will be bound by the orders of this Court to comply with all the laws, state and federal, affecting the public schools in Halifax County;

It is therefore, ORDERED, ADJUDGED and DECREED:

THAT the motion of the defendant that it be dismissed from this action is allowed insofar as the question of the constitutionality of the Act creating the Scotland Neck Unit is concerned. Said defendant will no longer be required to defend or appear in subsequent actions involving only the constitutionality of the Act creating said unit, but said defendant is not relieved from the other parts of this action involving its violation of the Civil Rights Act, but shall comply with the orders of this Court, and orders of any Appellate Court or the Supreme Court of the United States of America, as they may effect the operations of the public schools of Halifax County.

THAT this ORDER shall become effective as soon as it is executed by the Court.

Let this ORDER be entered forthwith.

This the 3rd day of November, 1969.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

ALGERNON L. BUTLER
United States District Judge

Raleigh, North Carolina
October ___, 1969

PLAINTIFF'S EXHIBIT #38

Civil Action No. 1128

ANSWER TO PLAINTIFF'S INTERROGATORIES TO DEFENDANT HALIFAX COUNTY BOARD OF EDUCATION

October 28, 1969

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
NORTH CAROLINA

WILSON DIVISION

Civil Action No. 1128

UNITED STATES OF AMERICA, PLAINTIFF,

v.

HALIFAX COUNTY BOARD OF EDUCATION, a body corporate, and the SCOTLAND NECK CITY BOARD OF EDUCATION, a body corporate, DEFENDANTS.

ANSWER TO PLAINTIFF'S INTERROGATORIES TO DEFENDANT HALIFAX COUNTY BOARD OF EDUCATION

APPENDIX

Questions	Page
1	1
2	6
3a	9
3b	28
3c	48
3d	49
4a	54
4b	96
5a	98
5b	100
6	103
7	104
8a	105
8b	107
8c	107
9a	111
9b	111
9c	111
9d	112
10	114
11	115
11a, b	139
12	140
13	141
14	143
15	145
16	147
17	150
18	151
19	160
20	161
21	163
22	164
23	169

1. Please state the name, location, grades served, date of construction and any substantial additions, and attendance zone lines for each school in defendant's school unit for the 1969-70 school year. If there are no present attendance zones, describe the lines for the zones for the last year before they were eliminated, and state what year that was. If possible, please show as much of this information as practicable on a map, such as a general highway map prepared by the North Carolina Highway Department..

1. The names of schools, grades served, date of construction and substantial additions for the schools in Halifax County Unit in the 1969-70 school unit are shown on the attached form. (See attached sheet No. 1). The location of these schools are shown on the attached map (See attached map No. 1).

There were no attendance zones during the 1968-69 school year except for pupils in grades 7 and 8 who were transferred to predominantly white schools as follows:

. Grades 7 and 8 from John A. Chaloner School to William R. Davie School.

. Grades 7 and 8 from McIver School to Aurelian Springs School.

. Grades 7 from Inborden Elementary School to Enfield School.

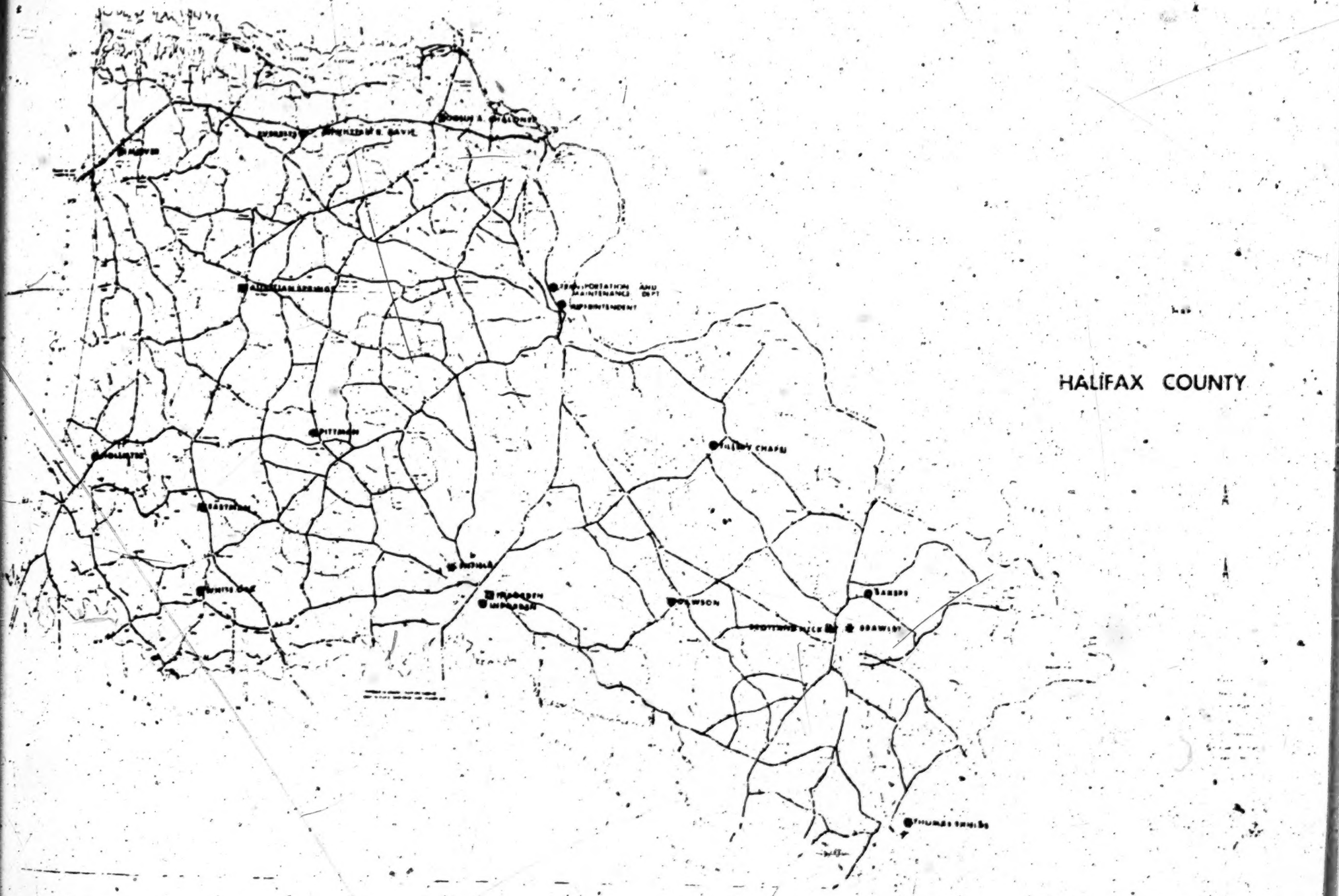
. Grades 7 and 8 from Brawley School to Scotland Neck School.

There are no attendance zones for the 1969-70 school year.

School	Grades Served	Date of Construction	Date of substantial additions
Aurelian Springs Route 2, Littleton, N. C.	1-12	1922—4 classrooms Auditorium	1925—4 classrooms, 1 library 1929—5 classrooms, library 1934—6 classrooms 1935—1 classroom, 1 shop 1948—Gym-Cafeteria 1959—3 classrooms
Bakers Elem. Route 1, Box 103 Scotland Neck, N.C.	1-8	1959—10 classrooms 1 Library	1961—3 classrooms, 1 Cafetorium
Brawley School Scotland Neck North Carolina	1-12	1926—8 classrooms 1 Library	1937—8 classrooms 1942—2 classrooms, 1 shop 1951—5 classrooms, 1 library 1955—5 classrooms 1960—Gymntorium, 4 classrooms 1968—Cafeteria
Dawson Elem. Scotland Neck North Carolina	1-8	1938—4 classroom 1 Music Room	1953—6 classrooms 1960—10 classrooms, 1 library, Cafetorium
Eastman Route 2, Enfield, N.C.	1-12	1947—1 classroom 1 shop	1949—Gymtorium 1953—5 classrooms, 1 library 1956—7 classrooms 1959—13 classrooms, 1 library 1968—Cafetorium
Enfield Graded Enfield, N.C.	1-12	1948—20 classrooms Library Auditorium Cafeteria Gym	1952—1 classroom, 1 shop

School	Grades Served	Date of Construction	Date of substantial additions
Everetts Elem. Route 1, Roanoke Rapids, N.C.	1-8	1958—14 classrooms Library	1960—6 classrooms, Cafetorium
Hollister Elem. Hollister, N.C.	1-8	1960—13 classrooms	1966—Cafetorium, Library
Inborden Elem. Enfield, N.C.	1-8	1948—12 classrooms cafeteria.	1954—2 classrooms 1956—2 classrooms, library 1960—12 classrooms 1969—Cafetorium
Inborden High Enfield, N.C.	9-12	1951—5 classrooms library	1955—3 classrooms, Gymtorium 1961—1 classroom, 1 shop
J. A. Chaloner Roanoke Rapids North Carolina	1-12	1924—5 classrooms library auditorium	1938—4 classrooms 1940—1 classroom, 1 shop 1941—7 classrooms, cafeteria 1942—1 classroom 1944—1 music room 1945—Gymnasium 1950—2 classrooms 1955—6 classrooms 1958—9 classrooms, library
McIver High Littleton, N.C.	1-12	1925—6 classrooms	1930—4 classrooms 1941—band room, 1 classroom, 1 shop 1948—Gymnasium 1954—2 classrooms, library 1959—8 classrooms 1964—6 classrooms 1968—cafetorium

School	Grades Served	Date of Construction	Date of substantial additions
Pittman Elem. Route 3, Enfield, N.C.	1-8	1959—15 classrooms library	1960—cafetorium, 1 classroom
Scotland Neck School Scotland Neck, N.C.	1-12	1903—12 classrooms library	1923—cafeteria, 8 classrooms, library 1939—1 Home Ec. Lab., 2 classrooms, 1 shop, Gymnasium 1949—1 classroom 1954—4 classrooms, auditorium 1960—4 classrooms, cafeteria, library
Thomas Shields Hobgood, N.C.	1-8	1957—6 classrooms	1958—4 classrooms 1961—library, cafetorium
Tillery Chapel Elem. Tillery, N.C.	1-8	1932—4 classrooms	1957—6 classrooms 1962—1 classrooms, library, cafetorium.
White Oak Route 2, Enfield, N.C.	1-8	1959—10 classrooms	1966—1 classroom, library, cafetorium.
Wm. R. Davie Route 1, Roanoke Rapids, N.C.	1-12	1940—11 classrooms 1 library auditorium	1952—4 classrooms, library 1953—1 shop, cafeteria, gymnasium. 1955—5 classrooms 1958—4 classrooms 1961—2 classrooms


HALIFAX COUNTY

2. Please describe any changes in the number, names, locations, grades served or attendance zone lines of the schools in defendant's school unit since the beginning of the 1964-65 school year.

2. Changes in school organization since the beginning of the 1964-65 school term are as follows:

a. John Armstrong Chaloner School formerly in Roanoke Rapids City School Unit, by order of officials of the Civil Rights Division of the U.S. Department of Health, Education and Welfare, by agreement between the Boards of Education of Roanoke Rapids City School Unit and the Halifax County School Unit and by action of the State Board of Education began operating as a part of the Halifax County School Unit at the beginning of the 1966-67 school year. This school had been operating to serve approximately 80% who were living within the Halifax County Unit. Approximately, 190 students or 20% living within the boundaries of Roanoke Rapids City Administrative Unit transferred to other schools in the Roanoke Rapids Unit.

b. Hobgood School, grades 1-8, was closed at the end of the 1966-67 school year. By choice, elementary students have been attending Scotland Neck School from the beginning of the 1967-68 school year. The Scotland Neck School attendance area for grades 1-12 became the same as the attendance area for the grades 9-12. (See map attached, No. 1).

c. Upon closing the high school department of the Haliwa School in Warren County, approximately 70 students in grades 9-12 who live near Hollister in Halifax County transferred to schools in Halifax County at the beginning of the 1967-68 school year. The elementary department of the Haliwa School was closed at the end of the 1968-69 school year and approximately 140 students grades 1-8 who live in Halifax County transferred to schools in Halifax County.

2. (d) Upon closing grades 1-5 of the Littleton School in Warren County at the close of the 1968-69 school term

approximately 60 students who live in Halifax County were transferred to Halifax County Schools. (See attached map No. 1).

3. (a) Please state the enrollment in each school by grade and race for the 1964-65, 1965-66, 1966-67, 1967-68, 1968-69 and 1969-70 school years, and for any other school year in which there was any desegregation of pupils in the system.

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Aurelian Springs

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	30		20		25		26		25	3	16	(20)
2	21		28		17		28		25		25	(17)1
3	23		23		25	1	16	1	28		19	(21)
4	26		28		20	1	28	1	20		23	(19)
5	31		27		23		21	1	29	1	18	(23)1
6	29		33		23	1	25		19		27	(15)1
7	36		28		30	1	24	1	25	53	18	(12)
8	37		39		26		29	2	22	64	25	(15)
Spec. Ed.												(12)
9	38		46		38	17	31	22	31	23	14	(22)3
10	27		33		42	14	29	17	26	18	29	(14)4
11	33		25		35	11	38	13	31	13	25	(16)3
12	24		30		23	12	26	14	36	10	24	(12)1
TOTAL	365		360		326	58	321	72	317	186	263	232

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Bakers

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		49		42		39		36		27		36
2		44		49		37		42		34		29
3		52		39		41		31		36		39
4		47		41		36		37		29		39
5		45		41		33		39		43		27
6		43		49		41		34		38		45
7		43		47		56		36		33		34
8		42		37		44		49		34		35
Spec. Ed.		18		18		20		15		9		
9												
10												
11												
12												
TOTAL		383		363		347		319		283		284

W=White
NW=Negro or Indian
( )=Indians in Predominantly Negro Schools
Enrollment figures were determined at different times during the school year.
COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Brawley

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		65		61		63		48		60		50
2		67		61		52		50		59		54
3		70		62		54		49		54		53
4		71		66		55		56		49		55
5		72		70		58		55		66		42
6		66		74		75		58		61		52
7		69		68		73		82				48
8		61		68		70		80				56
Spec. Ed.		18		18		18		35		15		
9		221		234		218		232		288		247
10		161		170		192		157		182		184
11		112		111		143		141		154		152
12		104		96		106		108		118		124
TOTAL		1157		1159		1177		1151		1106		1117

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Dawson

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		80		67		66		56		49		39
2		70		74		62		56		51		42
3		72		68		67		54		51		41
4		88		61		60		59		48		48
5		77		75		62		55		59		39
6		62		71		73		60		50		52
7		54		55		66		63		62		48
8		64		49		52		56		63		54
Spec. Ed.				16		14		16		26		27
9												
10												
11												
12												
TOTAL		562		536		522		475		459		390

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Eastman

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		71		61		54		57		50		46
2		63		62		63		50		58		56(1)
3		76		62		53		68		41		48
4		59		63		65		42		65		49(1)
5		74		50		59		55		46		51
6		75		63		54		63		54		46
7		67		69		65		55		59		54
8		54		56		63(7)		64		59		59
Spec. Ed.												42
9		147		138		158(1)		158(3)		167(2)		137
10		113		124		118		139(3)		146		158(1)
11		93		92		104		107		108		122
12		76		88		88		101		97		105
TOTAL		968		928		952		965		952		976

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Enfield Graded

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	42	3	31	4	26	3	30	6	35	2	15	1
2	43		33	12	29	5	24	7	27	5	20	4
3	42		37	1	33	9	30	7	27	5	18	7
4	44		36		31	4	33	9	31	6	18	6
5	45		42		29	4	37	6	34	10	19	7
6	42		44		37	5	30	5	32	7	28	8
7	35		41		47	4	42	7	31	123	23	20
8	41		37	1	40	2	47	7	47	6	16	17
Spec. Ed.	11		10		11							
9	33		39	8	35	3	40	1	45	5	26	9
10	52	2	28	11	33	6	30	5	31	2	32	7
11	40	1	43	14	28	12	35	7	34	1	17	3
12	37		35	8	40	10	26	10	28	5	24	
TOTAL	505	6	456	59	419	67	404	77	402	177	256	89

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Everetts

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		89		96		76		83		56		57
2		66		78		83		63		66		46
3		86		70		65		77		62		66
4		67		91		58		62		67		56
5		82		69		69		55		57		72
6		70		73		58		61		50		47
7		67		67		64		51		60		50
8		71		70		56		52		36		55
Spec. Ed.						18		16		24		11
9												
10												
11												
12												
TOTAL		598		614		547		520		478		460

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Hobgood

	1964-65		1965-66		1966-67		*1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	10		13		7							
2	14		8		9							
3	10		16		8							
4	10		6		15							
5	15		15		9							
6	8		15		13							
7	15		10		13							
8	10		12		10							
Spec. Ed.												
9												
10												
11												
12												
TOTAL	92		95		84							

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

*COMMENTS: School closed and pupils attended Scotland Neck School.

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Hollister

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		53		46		38(8)		51		31(5)		45(5)
2		55		42		41(5)		30(3)		42(3)		27(3)
3		44		57		32(5)		44		36(2)		40(4)
4		57		46		59(4)		45(4)		40(4)		44
5		53		56		48(6)		42(5)		37(2)		30(3)
6		44		48		38(6)		53(2)		36(6)		25(7)
7		45		43		41(4)		37(3)		45(2)		35(6)
8		35		39		38(2)		40(2)		36(4)		32(10)
Spec. Ed.												13(2)
9												
10												
11												
12												
TOTAL		386		377		375		361		381		331

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different imes during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Inborden

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		158		152		142		127		136		108
2		161		145		140		127		115		136
3		139		154		138		143		123		98
4		129		137		138		130		146		111
5		168		126		121		139		136		138
6		131		165		136		116		145		131
7		124		123		136		132		15		168
8		99		119		118		137		133		58
Spec. Ed.						18		16				16
9		134		113		158		192		219		213
10		120		95		105		89		114		108
11		80		74		87		80		68		94
12		63		62		67		57		68		52
TOTAL		1506		1465		1504		1485		1418		1431

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: John Armstrong Chaloner

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1						71		64		64		70
2						61		75		61		52
3						76		54		70		57
4						51		75		52		62
5						67		57		74		44
6						59		61		62		59
7						84		73				55
8						64		71				42
Spec. Ed.						18		19		10		16
9						88		91		92		70
10						80		68		74		70
11						62		72		63		59
12						71		57		58		56
TOTAL						852		837		680		712

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: McIver

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		60		63		54		47		51		50
2		53		57		51		53		50		49
3		68		63		48		56		51		53
4		65		53		50		54		47		52
5		70		64		50		50		51		46
6		60		58		58		47		52		54
7		60		59		43		63				64
8		60		49		49		46				43
Spec. Ed.		19		15		15		6		10		15
9		78		93		82		87		89		85
10		101		65		73		76		75		68
11		84		87		52		44		56		61
12		53		74		64		53		40		50
TOTAL		831		800		689		682		572		690

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Pittman

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		80		64		81		74		58		39
2		81		72		51		53		56		47
3		67		73		70		68		53		61
4		74		62		56		50		56		43
5		80		65		62		61		45		52
6		78		75		61		52		57		35
7		68		75		68		59		33		39
8		70		60		69		61		46		35
Spec. Ed.						18		16		16		15
9												
10												
11												
12												
TOTAL		598		547		516		494		420		366

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Scotland Neck

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	60		59	2	51	1	73	6	68	2	51	3
2	50		62	2	60	1	56	2	67	6	63	3
3	67		58		54	3	59	1	52	2	69	7
4	61		71		51	2	65	4	59	2	48	2
5	67		71		69	3	64	6	76	6	59	8
6	63		71		56	1	73	2	59	3	77	7
7	71		67		69	3	72	1	59	68	61	7
8	72		69		54	3	78	5	63	85	50	13
Spec. Ed.												
9	85		87	1	81	2	64	5	78	4	67	13
10	65		89		76	8	74	4	58	8	76	12
11	71		61	2	76	2	80	7	73	1	58	3
12	65		67	1	56	1	71	3	74	8	62	
TOTAL	797		832	8	753	30	829	46	786	193	741	78

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Thomas Shields

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
												17
1		59		50		29		29		29		26
2		43		43		34		28		21		20
3		36		36		30		32		23		19
4		50		35		35		35		24		20
5		48		45		32		31		24		28
6		41		39		43		28		28		27
7		40		35		31		23		18		19
8		38		29		29		29		20		
Spec. Ed.								16		16		
9												
10												
11												
12												
TOTAL		355		312		263		251		203		176

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at diffecent times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: Tillery Chapel

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		54		49		49		43		28		34
2		35		42		39		41		43		26
3		50		33		40		34		39		38
4		38		47		35		34		34		36
5		43		38		43		29		29		32
6		43		44		39		36		28		30
7		42		42		40		33		39		25
8		35		41		38		24		32		36
Spec. Ed.												
9												
10												
11												
12												
TOTAL		340		386		323		284		272		257

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: White Oak

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1		53		47		49		48		48		50
2		39		46		40		47		41		35
3		47		53		36		35(1)		38(2)	1	36
4		35		39		51		39		31		35
5		59		41		34		45(1)		35		39(1)
6		47		55		46		33		39		39
7		45		34		53		36(2)		24		39(1)
8		28		39		32		45(2)		30		29
Spec. Ed.										16		
9												
10												
11												
12												
TOTAL		353		354		341		334		304	1	304

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Enrollment by Race and Grade for the Following Years

SCHOOL: William R. Davie

	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
GRADE	W	NW	W	NW	W	NW	W	NW	W	NW	W	NW
1	84		96	2	95	5	92	12(1)	79	8	62	16
2	72		88		88	5	77	4	89	10(1)	73	10(1)
3	96		83	2	78	6	86	6(1)	70	5	84	13
4	82		107	2	82	7	71	7	78	7(1)	72	11
5	72		82	2	97	6	78	8	78	10	79	16(1)
6	58		69		72	23	99	6	79	6	70	16
7	76		54	2	73	9	63	22	101	69	65	17
8	73		72	7	58	10	64	15	56	87	88	28
Spec. Ed.	13		14		17		8				5	11
9	72		83	6	78	21	76	13	79	19	64	39
10	71		67	7	72	19	62	20	48	14	54	19
11	68		55	8	50	13	45	14	58	13	41	22
12	46		66		42	7	39	10	37	14	48	12
TOTAL	883		936	38	902	131	860	139	852	264	805	232

W=White

NW=Negro or Indian

( )=Indians in Predominantly Negro Schools

Enrollment figures were determined at different times during the school year.

COMMENTS:

3. (b) Please state the average daily attendance in each school by grade for the year 1968-69 and the first reporting period of 1969-70.

(c) Please state the total expenditure per pupil in each school in the system for each of the years 1964-65 through 1969-70, and state whether said figure is based on enrollment or average daily attendance.

3. (b) Average daily attendance in each school by grade for the year 1968-69 and the first reporting period of 1969-70. (See attached sheets).

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Aurelian Springs

GRADE.	1968-69	First Month 1969-70
1	27	33
2	24	39
3	27	40
4	19	41
5	28	43
6	19	44
7	68	31
8	73	41
Special Education		
9	48	37
10	41	43
11	39	41
12	43	35
Total	456	471

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Bakers Elem.

GRADE	1968-69	First Month 1969-70
1	27	34
2	36	28
3	36	37
4	26	37
5	42	26
6	36	43
7	31	31
8	30	32
Special Education	1	—
9		
10		
11		
12		
Total	265	268

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Brawley

GRADE	1968-69	First Month 1969-70
1	58	25
2	57	26
3	53	26
4	48	25
5	62	21
6	60	29
7	—	30
8	—	25
Special Education	2	8
9	204	118
10	163	88
11	142	73
12	110	57
Total	959	551

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Dawson Elem.

GRADE	1968-69	First Month 1969-70
1	42	37
2	45	40
3	45	38
4	48	45
5	52	35
6	44	46
7	49	43
8	55	48
Special Education	12	14
9		
10		
11		
12		
Total	387	346

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Eastman

GRADE	1968-69	First Month 1969-70
1	47	44
2	53	52
3	38	47
4	59	46
5	40	45
6	49	41
7	53	52
8	49	53
Special Education	—	15
9	140	132
10	122	129
11	93	106
12	89	95
Total	832	857

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Enfield Graded

GRADE	1968-69	First Month 1969-70
1	84	15
2	32	24
3	30	24
4	35	23
5	42	25
6	37	20
7	138	42
8	48	33
Special Education	—	—
9	46	30
10	32	38
11	33	20
12	29	23
Total	536	317

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Everetts Elementary

GRADE	1968-69	First Month 1969-70
1	58	55
2	68	45
3	57	66
4	63	58
5	50	66
6	48	45
7	54	46
8	34	49
Special Education	13	—
9		
10		
11		
12		
Total	435	425

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Hollister Elem.

GRADE	1968-69	First Month 1969-70
1	34	45
2	42	29
3	35	42
4	41	40
5	34	30
6	36	30
7	41	36
8	34	37
Special Education	—	12
9		
10		
11		
12		
Total	297	301

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Inborden Elem.

GRADE	1968-69	First Month 1969-70
1	104	108
2	100	128
3	108	92
4	126	104
5	121	126
6	128	118
7	—	150
8	109	58
Special Education	13	14
9		
10		
11		
12		
Total	829	888

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Inborden High

GRADE	1968-69	First Month 1969-70
1		
2		
3		
4		
5		
6		
7		
8		
Special Education		
9	160	177
10	75	96
11	57	82
12	63	46
Total	355	401

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL John A. Chaloner

GRADE	1968-69	First Month 1969-70
1	66	68
2	59	51
3	69	56
4	49	61
5	69	44
6	58	57
7	—	54
8	—	39
Special Education	13	10
9	80	62
10	66	66
11	57	55
12	56	47
Total	642	670

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL McIver

GRADE	1968-69	First Month 1969-70
1	47	48
2	47	46
3	49	50
4	43	49
5	49	41
6	46	49
7	—	56
8	—	39
Special Education	—	13
9	76	76
10	67	62
11	50	56
12	37	44
Total	511	629

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Pittman Elem.

GRADE	1968-69	First Month 1969-70
1	50	33
2	50	42
3	47	55
4	48	39
5	37	46
6	46	32
7	30	33
8	39	32
Special Education	12	11
9		
10		
11		
12		
Total	359	323

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Scotland Neck

GRADE	1968-69	First Month 1969-70
1	66	53
2	70	66
3	54	74
4	59	49
5	76	63
6	61	81
7	117	65
8	140	64
Special Education		
9	77	75
10	62	84
11	68	60
12	76	60
Total	926	794

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Thomas Shields Elem.

GRADE	1968-69	First Month 1969-70
1	25	17
2	20	25
3	20	20
4	22	20
5	23	20
6	26	27
7	15	27
8	18	18
Special Education	13	
9		
10		
11		
12		
Total	182	174

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL Tillery Chapel Elem.

GRADE	1968-69	First Month 1969-70
1	25	32
2	39	24
3	35	37
4	33	33
5	27	31
6	25	28
7	37	24
8	28	35
Special Education		
9		
10		
11		
12		
Total	249	244

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL White Oak

GRADE	1968-69	First Month 1969-70
1	42	47
2	36	33
3	38	27
4	29	33
5	30	36
6	32	34
7	22	35
8	23	27
Special Education	12	4
9		
10		
11		
12		
Total	264	276

HALIFAX COUNTY SCHOOLS
Halifax, N. C.

Average Daily Attendance by Grade for the Following Years

SCHOOL William R. Davie

GRADE	1968-69	First Month 1969-70
1	79	75
2	96	74
3	77	91
4	86	77
5	86	85
6	81	84
7	159	77
8	137	111
Special Education	—	—
9	88	112
10	56	70
11	64	60
12	48	59
Total	1057	976

(c) Please state the total expenditure per pupil in each school in the system for each of the years 1964-65 through 1969-70, and state whether said figure is based on enrollment or average daily attendance.

3. (c) The total expenditure per pupil in *each school* in Halifax County Unit for each of the years 1964-65 through 1969-70 is not available. There are no records kept of expenditures by school. This task would be impossible. The total expenditures per pupil average daily attendance are as follows:

	State	Federal	Local	Total
1964-65	256.73	11.74	32.69	301.12
1965-66	279.79	30.12	37.43	347.34
1966-67	307.66	97.74	39.29	444.68
1967-68	328.39	121.70	42.58	492.67
1968-69	321.82	120.81	84.02	526.69
1969-70	365.28	111.67	80.45	557.40

Approximated from approval local budgets, estimated Federal ESEA Title I Funds, and estimated State Funds.

3. (d) Please state for each of the school years 1964-65, 1965-66, 1966-67, 1967-68, 1968-69 and 1969-70, the number by race of pupils (I) who reside outside of the defendant's school unit and attended school within the unit, and (II) who reside within the unit and attended school outside the unit. For each such inter-unit transferee, please state the school unit of residence, the school unit of attendance, and, for such transferee during the present year, the school said pupil would attend should the inter-unit transfers cease. Please state a brief summary of any agreement under which inter-unit pupil transfers occur, and the location of any correspondence, notes, minute entries or other writings comprising, or containing information about, said agreements.

3. (d) ANSWER:

Approximate Number of Students Who Reside Outside of the Halifax County School Administrative Unit and Attend School Within the Unit

Year	No. of Pupils by Race	School Unit of Residence	School Attended
1964-65	75 (white)	Roanoke Rapids City	Wm. R. Davie
	40 (Negro)	Martin County	Thomas Shields
	20 (Negro)	Martin County	Brawley
	10 (white)	Martin County	Hobgood
	4 (white)	Martin County	Scotland Neck
1965-66	75 (white)	Roanoke Rapids City	Wm. R. Davie
	30 (Negro)	Martin County	Thomas Shields
	10 (Negro)	Martin County	Brawley
	5 (white)	Martin County	Scotland Neck
1965-66	75 (white)	Roanoke Rapids City	Wm. R. Davie
	10 (Negro)	Martin County	Thomas Shields
	5 (Negro)	Martin County	Brawley
	7 (white)	Martin County	Scotland Neck
1967-68	75 (white)	Roanoke Rapids City	Wm. R. Davie
	10 (Negro)	Martin County	Thomas Shields
	5 (Negro)	Martin County	Brawley
	7 (white)	Martin County	Scotland Neck
1968-69	75 (white)	Roanoke Rapids City	Wm. R. Davie
	10 (Negro)	Martin County	Thomas Shields
	5 (Negro)	Martin County	Brawley
1969-70	75 (white)	Roanoke Rapids City	Wm. R. Davie

3. (d) ANSWER (Continued):

Approximate Number of Students Who Reside Within the Unit but Who Attend School Outside of the Unit

Year	No. of Pupils by Race	School Unit of Residence	School and School Unit Attended
1964-65	220 (Indian)	Halifax County	Haliwa-Warren County
	160 (White)	Halifax County	Littleton-Warren County
	800 (Negro)	Halifax County	Chaloner-Roanoke Rapids City
1965-66	220 (Indian)	Halifax County	Haliwa-Warren County
	155 (White)	Halifax County	Littleton-Warren County
	790 (Negro)	Halifax County	Chaloner-Roanoke Rapids City
1966-67	215 (Indian)	Halifax County	Haliwa-Warren County
	155 (White)	Halifax County	Littleton-Warren County
1967-68	150 (Indian)	Halifax County	Haliwa-Warren County
	150 (White)	Halifax County	Littleton-Warren County
1968-69	140 (Indian)	Halifax County	Haliwa-Warren County
	150 (White)	Halifax County	Littleton-Warren County
1969-70	75 (White)	Halifax County	Littleton-Warren County

If the inter-unit pupil transfer policy would cease the approximately 75 white pupils who live in the Roanoke Rapids City School Unit but are attending school at Davie School in Halifax County would be required to attend a school in the Roanoke Rapids School Unit. The school to which they would be assigned is probably Rosemary School, since this school is the nearest to the residence of most of the elementary pupils.

If the inter-unit pupil transfer policy would cease the approximately 75 white pupils now attending Littleton School in Warren County would be given a choice of attending any school in Hailfax County. It cannot be determined what school in the County they would attend under the free-choice school plan now in operation.

Most of the inter-unit transfers developed historically over a period of years and no records or agreements are available. Records of the closing down of the Haliwa

High School at the close of the 1966-67 school year and the closing down of the Haliwa Elementary School at the close of 1968-69 school year are a part of the records that have been forwarded to the U.S. Department of Health, Education and Welfare. The transfer of Chaloner School from the Roanoke Rapids City Administrative Unit to the Halifax County Unit occurred at the close of the 1965-66 school year and all records of this transfer which enabled students residing in Halifax County to attend a school within the County are a part of the records of the U. S. Department of Health, Education and Welfare.

The students attending Littleton School have historically attended this school (30 years or more) and agreements between the two Boards of Education or school officials are not readily available. In the case of the Martin County students attending the Halifax County Schools, this situation developed because of the proximity of our schools to the Martin County line. The same would be true concerning students attending Littleton School, since the Littleton School is located on the line dividing Warren and Halifax County.

4. (a) Please state the number of regular classrooms in each school, the grades each classroom serves, the capacity of each classroom, and the basis upon which the capacities of the classrooms are determined. State by type the number of classrooms in each school specially adapted or equipped for commercial, scientific and agricultural courses, and the capacity of each of these rooms.

(See attached forms)

4 (a) Attached are floor plans of each school showing the grades or subjects taught and the capacity of each classroom.

The capacity of each classroom is relative to the type of class used in each. The county sets as a maximum the guidelines set up by the North Carolina Department of Public Instruction in its standards for accreditation though the rooms may be able to hold many more students. The primary grades usually hold (30) thirty, the elementary grades contain (35) thirty-five, the high school classes usually have (35) thirty-five in the academic classes and as many as (50) fifty in band or

chorus, physical education, or typing or any other special course.

4. (b) QUESTION:

Please state whether the school unit has used mobile classrooms at any time since the beginning of the 1964-65 school year, and, if so, state the number and capacity of the mobile classroom used at each school for each year since that time.

4. (b) ANSWER:

Mobile units have been used by the Halifax County School System for the purpose of relieving the overcrowded classroom circumstances of many of the schools. These mobile units have been transferred from one school to another and in accordance to their needs.

(Attached is a form showing the location, dates of use and capacity of each mobile unit.)

MOBILE CLASSROOMS USED BY HALIFAX COUNTY SCHOOLS FROM 1964-65—1969-70

Year	1964-65		1965-66		1966-67		1967-68		1968-69		1969-70	
Schools	No.	Capacity of each	No.	Capacity of each	No.	Capacity of each	No.	Capacity of each	No.	Capacity of each	No.	Capacity of each
Aurelian Springs					2	40			2	40	1	40
Bakers												
Brawley	2	40	8	40	10	40	11	40	4	40	9	40
Chaloner					2	40	2	40				
Dawson												
Davie	4	40	7	40	8	40	9	40	14	40	13	40
Eastman	2	40	6	40	9	40	10	40	8	40	12	40
Enfield			8	40								
Everetts												
Holister											1	40
Inborden Elem.	1	40	10	40	13	40	13	40	4	40	6	40
Inborden High									6	40	6	40
McIver			2	40					2	40	1	40
Pittman			1	40	2	40	1	40				
Scotland Neck									9	40		
Shields												
Tillery												
White Oak			2	40					1	40	1	40
Total	9		89		46		46		50		50	

5 (a) Attached is a list of the total number of full-time teachers, by race, at each school in the unit for each school year from 1964-65 to 1969-70.

NUMBER OF FULL TIME TEACHERS

SCHOOL	1964-1965		1965-1966		1966-1967		1967-1968		1968-1969		1969-1970	
	N	W	N	W-I	N	W	N	W	N	W	N	W
Aurelian Springs		16		17		18		17	5	18	4	20
Bakers	12		12		12		12		11	1		
Brawley	39		40		42		43		40			
Chaloner	*		*		34		33		29		29	1
Dawson	15		18		17		16		15	2	15	2
Eastman	31		32		35		33	1	36	2(I)	38	2
Enfield		25		25		25	1	21	4	22	2	20
Everetts	16		21		19		18		19	1	18	1
Hollister	11		11		11		12		12		13	1
Inborden Elem.	30		28		36		35		31		34	1
Inborden High	12		14		14		14		16	1		
McIver	29		28		27		28		26		29	
Pittman	16		17		18		17		17		15	
Scotland Neck		30	1	32	1	32	4	34	10	34	2	33
Thomas Shields	11		10		11		9		9		6	1
Tillery Chapel	9		10		10		10		11		11	1
White Oak	10		11		11		11		12		10	2
Wm. R. Davie		34	1	39	1	42	2	40	9	37	9	34
Hobgood		4		4		4			CLOSED			
TOTAL	241	109	254	117	299	121	299	113	312	118	285	119

* (Chaloner) was in the Roanoke Rapids City Unit during the 1964-65, 1965-66 School Year
I Indian

5 (b) Please state the number of other professional personnel, teachers' aides, par-time teachers, secretaries, cafeteria employees and janitorial personnel by race at each school for each of the school years 1968-69 and 1969-70.

SEE ATTACHMENTS

Question 4

Part (B)

1968-69

School	T. Aides		P. T. Teachers		Janitorial		Secretaries		Cafeteria		Total	
	W	N	W	N	W	N	W	N	W	N	W	N
A. Springs	1		none		1	2	1		7		10	2
Bakers		3	none			2		1		7		13
Brawley		8	none			3		1		10		22
Dawson		5	none			3		1	1	5	1	14
Eastman		7	none			3		1		12		23
Enfield Graded	1	1	none			3	1		1	5	3	9
Everetts		4	none			3		1		5		13
Hollister		3	none			2		1		5		11
Inborden High		2	none			1		1				4
Inborden Elem.		7	none			3		1		11		22
J. A. Chaloner		5	none			3		1		7		16
McIver		5	none			3		1		8		17
Pittman		4	none			2		1		5		12
Scotland Neck	2		1		1	4	1		3	8	8	12
Thomas Shields		3	none			2		1		5		11
Tillery Chapel		3	none			2		1		5		11
White Oak		4	none			2		1		6		13
William R. Davie	1	1	none			3	1		13		15	4
Total	5	65	1		2	46	4	14	25	104	87	229

Question 4 Part (B)

1969-70

School	T. Aides		P. T. Teachers		Janitorial		Secretaries		Cafeteria		Total	
	W	N	W	N	W	N	W	N	W	N	W	N
A. Springs	2		none		1	1	1		7		11	1
Bakers		3	none			2		1		5		11
Brawley		6	none			3		1		11		21
Dawson		4	none			2		1	1	6	1	13
Eastman		6	none			3		1		9		19
Enfield Graded	1	1	none			2	1		1	5	3	8
Everetts		4	none			3		1		5		13
Hollister		3	none			2		1		5		11
Inborden High		1	none			3		1				5
Inborden Elem.		7	none			3		1		12		23
J. A. Chaloner		3	none			3		1		7		14
McIver		3	none			3		1		6		13
Pittman		3	none			2		1		5		11
Scotland Neck			none			4	1		3	6	4	10
Thomas Shields		3	none			2		1		6		12
Tillery Chapel		3	none			2		1		5		11
White Oak		3	none			2		1		6		12
William R. Davie	3	1	none			3	1		11		15	4
Total	6	54	none		1	45	4	14	23	99	34	212

6. Please state the teaching schedule for each member of the faculty at each school for the 1969-70 school year, his race, his certification, and his score on the National Teachers' Examination. This schedule should include the subject and grade taught and the hour of the class. Please state the number of students enrolled and, if possible, the average daily attendance for each class.

(See Portfolio)

7. Please state the number of teachers, by race and by school, who have been newly hired and who have started teaching in the defendant's school unit each of the school years from 1964-65 to 1969-70, the certification of each teacher, and the grade and subject to which each teacher has been assigned. State also the number of teachers, by race and by school, who have left employment, or who have been transferred from one school to another, in the defendant's school unit for each of the above school years. Please describe the manner in which new teachers are employed including full details of the recruiting program and the nature of any authority given to or used by principals, school committees, or others in the hiring process.

(See Portfolio)

8. (a) Please state the name of each teacher and staff member (even though no longer employed by the defendant's school unit) who indicated a willingness to teach or work across racial lines and the steps taken to assign each such teacher across racial lines. Please state what steps, if any, have been taken to encourage teachers and staff members to teach and work across racial lines (including polls), the name of each teacher so encouraged, by whom encouragement was given and the results thereof.

ANSWER: Beginning in the fall of 1964, teachers and other staff members were approached by the Halifax County Central Office Staff and encouraged to teach across racial lines. In 1965 and in at least one succeeding year a survey was conducted to determine the willingness of the teachers to teach across racial lines. Few teachers indicated a willingness to change schools. (Ap-

proximately 6 each year stated they would accept such assignment, but would not volunteer). Both direct and indirect approaches were made to encourage teachers to choose to teach children of a race different from their own.

It is impossible to give the names of the teachers approached or the person whom they were approached by during the past 6 years, since no records were kept of the conversations. Every new teacher employed was asked whether he or she would be willing to accept a teaching assignment in a school of a different race.

The results of the concentrated effort are shown by the steady increase in the number of teachers teaching across racial lines:

Year	Teachers Employed in a School Where Their Race in in Minority.
1964-65	0
1965-66	2
1966-67	4
1967-68	12
1968-69	35
1969-70	23

Halifax County

8. (b) QUESTION:

Please state the number of workshops, meetings, training institutes or similar programs, attended by the school unit's teachers and other professional staff members of both races, and for each such program, its location, the inclusive dates, number of staff members by race in attendance, the topic matter or purpose of such program, and the sponsor(s).

8. (b) ANSWER:

The Halifax County School System has conducted well planned in-service education programs for its professional and non-professional staff. Each program has been developed to increase their understanding of issues and problems of education, to improve their methods of teaching various subjects, and in general, to keep their

thinking and their teaching effective. These programs involved the Negro and Caucasion races. (Please see attached sheets for explanations and descriptions of In-Service Programs).

8. (c) QUESTION:

Please state the number of workshops, meetings, training institutes or like programs for staff personnel, which dealt wholly or in part with desegregation of pupils or faculties, or both, to which the staff members of the school unit were invited or could have attended, and which are not listed elsewhere in your answers to those interrogatories. State for each such meeting the inclusive dates, purpose or topic matter, the number of staff personnel by race who attended and if no staff personnel attended, the reasons why said staff members were not in attendance.

8. (c) ANSWER:

A series of conferences and meetings were conducted during the 1967-68 and 1968-69 school term that dealt in part with the desegregation of pupils in the schools. Representatives from each of the high schools participated in these conferences and the sessions were held on rotation basis, including all of the high schools of the County.

Topics included for discussion were:

1. Better Communication Between Students, Faculty, Parents, and Community
2. Meaningful Relationship with Members of the Opposite Race and
3. Involvement of All Students in School Activities

The number of participants in these conferences varied from one session to another and according to the size of the schools involved. Approximately thirty persons participated in each session with a racial composition of about eighteen (18) Negroes and twelve (12) Caucasions.

Each participant from the schools involved discussed with their local faculty and student body the issues considered in their county-wide meetings.

HALIFAX COUNTY SCHOOLS

WORKSHOPS, MEETINGS, INSTITUTES ATTENDED BY TEACHERS & OTHER PROFESSIONAL STAFF FROM 1964-65 — 1969-70

Titles	Dates	Location	No. Attended *N	No. Attended **C	Sponsor
Techniques of Teaching	June 13, July 1, 1966	Inborden School Enfield	57	10	County ESEA Title I
Improvement in Reading	June 13, July 1, 1966	Inborden School Enfield	76	10	County ESEA Title I
Modern Mathematics	June 13, July 1, 1966	Inborden School Enfield	22	4	County ESEA Title I
Arts, Crafts and Music	June 13, July 1, 1966	Inborden School Enfield	65	5	County ESEA Title I
Audio Visual Aids	June 13, July 1, 1966	Inborden School Enfield	16	9	ESEA Title I
Pupil Evaluation	June 13, July 1, 1966	Inborden School Enfield	10	4	County ESEA Title I

Modern Methods of Teaching	June 13, July 1, 1966	Inborden School Enfield	66	8	County ESEA Title I
Unit Teaching in The Elementary School	Aug. 21-25 1967	Aurelian Springs Sch. Littleton	20	10	County
School Administration of Testing Programs	October 1967	Inborden School Enfield	16	4	ESEA Title I
Teacher Aide Workshop	August 1967	Inborden School Enfield	65	15	ESEA Title I
Music Workshop	October 1967	Inborden School Enfield	22	6	County ESEA Title I
Study of the Disadvantaged Child	October 1967	Inborden School Enfield	40	2	ESEA Title I
Reading in The Junior High School	October 1967	Inborden School Enfield	18	7	ESEA Title I
Problems in Educational Administration	October 1967	Inborden School Enfield	18	7	County ESEA Title I

HALIFAX COUNTY SCHOOLS

WORKSHOPS, MEETINGS, INSTITUTES ATTENDED BY TEACHERS & OTHER PROFESSIONAL STAFF FROM 1964-65 — 1969-70

Titles	Dates	Location	No. Attended *N	No. Attended **C	Sponsor
Techniques of Teaching	October 1967	Inborden School Enfield	26	5	County ESEA Title I
New Ideas in Teaching High School Science	April 1968	Inborden School Enfield	12	8	County ESEA Title I
Mental Hygiene in the School	April 1968	Inborden School Enfield	27	4	County ESEA Title I
Elementary Science Workshop	April 1968	Inborden School Enfield	17	0	County ESEA Title I
Home-Community Relations	April 1968	Inborden School Enfield	54	26	County ESEA Title I

Modern Math for Elementary Teachers	April 1968	Inborden School Enfield	18	7	County ESEA Title I
Teacher-Teacher Aide Workshop	June 1968 Aug. 1968	Dawson School Scotland Neck	75	18	ESEA Title I
Personality Development, Behavior Disorders, Therapeutic Measures, and Intergroup Conflict Resolutions	Sept. 17, 1968 April 15, 1969	Dawson & Pittman Schools	115	27	County ESEA Title I
Communications and A. V. Materials and Equipment	March 1- April 12, 1967	Dawson & Aurelian Springs Schools	12	5	County ESEA Title I
Desegregation Workshop	Nov.-Dec., 1968 July-Aug., 1969	Eastman Aurelian Springs Davie Brawley Enfield Graded Raleigh	98	72	County, ESEA Title I Edu. Leadership Center

* Negro

** Caucasian

9. (a&b) Please state the bus number, the length of the route, and the race of the driver of each school bus serving each school in the district during the 1969-70 school year, and the number of students of each race riding each bus. Please attach a description of the route of each bus and, if possible, a map or maps showing the routes of all the school buses in the district. Please state how many miles of each school bus route coincide with the route of a bus serving a school attended predominantly by students of the opposite race.

Since the Halifax County School system is not fully integrated, we operate a partial dual transportation system. This means that in the majority of the cases a separate transportation system is provided for negro and white students. However, this does not always apply because a student has the right to ride any bus that will transport him to the school of his choice. Therefore, the same percentage of integration exist in the transportation system as exist in the Halifax County School Administrative Unit.

The school bus drivers are selected from the schools that they attend. In most instances this would mean that negro drivers would be driving buses to negro schools and white drivers to predominately white schools. However, exceptions exist on this point because some negroes that attend predominately white schools have been selected as drivers without discrimination.

9. (c) Please state whether there is any residential segregation by race in the school unit. Please identify and give a general description of any areas in the unit which are wholly or predominantly uniracial. If pupils now in the system are assigned to existing schools on a unitary geographic basis, and disregarding any possible withdrawal of white pupils as a result of integration, would the pupil population of any school be wholly or substantially uniracial?

Yes, residential segregation does exist in the Halifax County Administrative Unit. In the rural areas of Halifax County two of the three races of people are dispersed throughout most of the county. The Haliwa Indians, the

third race of people living in Halifax County, reside predominantly in the Hollister section. The only areas of the County which has residential segregation would be areas in and around Roanoke Rapids, Enfield and Scotland Neck which does have sections of all white and all negro residents.

In answer to the question of whether a school would remain wholly or substantially uniracial, the reply is yes. This is true because certain sections of the county are so heavily negro populated that any system of education that we have devised would not bring about integration in these areas. This statement may sound contridictory to previous statements about racial dispersement in the rural areas, however this can be explained by the high percentage of negro residents living in Halifax County.

9. (d) Please state the schools of any other administrative unit served by buses or drivers of the defendant, the number of each such bus, the number of pupils by race transported to or from each such school, and a brief summary of any agreements, resolutions or minutes under which said service is provided. Please state the name, address and any official positions of persons known to you who have information about this arrangement.

The fourteen school buses that serve the Weldon Administrative Unit are titled to the Halifax County Board of Education. This was done on the recommendation of the North Carolina State Board of Education. The Halifax County Maintenance Department provides maintenance and fuel to these buses but exercises no control over their operation.

10. Please state what courses are currently taught at each school, and what courses are proposed to be taught for the 1970-71 school year. If any of the courses are not given evey year or are given only one semester each year, please indicate that fact.

(See Portfolio)

11. Please state what organized athletic programs, bands, or other extracurricular activities under school auspices are operated at each school, and the number of students, by race, participating in each sport or activity at each school.

To answer this question, I refer you to the following sheets which include all the School's Athletic schedules, the number of players envolved and their racial composition; bands and their composition by race; and, all the clubs at each school and their composition by race.

WILLIAM R. DAVIE SCHOOL

Route 1, Box 191

Roanoke Rapids, N.C. 27870

1969-1970 Football Schedule

Date	Opponent	Home	Away
Sept. 5	Norlina		X
Sept. 12	Wakelon		X
Sept. 19	Warrenton	X	
Sept. 26	Gaston	X	
Oct. 3	Weldon	X	
Oct. 10	Littleton		X
Oct. 17	Oxford Orphanage	X	
Oct. 24	Murfreesboro		X
Oct. 31	(Open)		
Nov. 7	Louisburg		X

WILLIAM R. DAVIE

1969-70 Basketball Schedule

Friday, December 5	(Open)
Tuesday, December 9	Gaston
Friday, December 12	Aurelian Springs
Tuesday, December 16	Warrenton
Friday, December 19	Norlina
Friday, January 2	Enfield
Tuesday, January 6	Murfreesboro
Friday, January 9	Littleton
Tuesday, January 13	Weldon
Friday, January 16	(Open)
Tuesday, January 20	Gaston
Friday, January 23	Aurelian Springs
Tuesday, January 27	Warrenton
Friday, January 30	Norlina
Tuesday, February 3	Enfield
Friday, February 6	Murfreesboro
Tuesday, February 10	Littleton
Friday, February 13	Weldon

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

Board of Education

C. M. Moore, Jr., Chm.
Mrs. J. C. Shearin
W. Carlos Burt

Board of Education

C. H. Leggett
Mrs. A. L. Williams
A. G. Wilcox, Jr.
J. I. Walston, Jr.

WILLIAM R. DAVIE SCHOOL

Activity	White	Negro	Total
Football	19	10	29
Basketball (boys)	9	5	14
Basketball (girls)	9	3	12
Monogram Club	20	5	25
Future Homemakers of America	18	13	31
Science Club	11	3	14
Future Farmers of America	61	14	75
Library Club	22	3	25
Student Council	20	8	28
Future Teachers of America	23	10	33
Beta Club	11	1	12

JOHN A. CHALONER SCHOOL

Roanoke Rapids, North Carolina 27870

BASKETBALL SCHEDULE
for
1969-1970

Date	Opponent	Location
November 7, '69	Phillips	Battlesboro, N. C.
November 11	McIver	Roanoke Rapids, N. C.
November 18	Inborden	Roanoke Rapids, N. C.
November 21	Phillips	Roanoke Rapids, N. C.
November 25	Eastman	Enfield, N. C.
December 2	Inborden	Enfield, N. C.
December 5	W. S. Creecy	Roanoke Rapids, N. C.
December 9	C. S. Brown	Winton, N. C.
December 12	Perquimans	Winfall, N. C.
December 16	Gumberry	Roanoke Rapids, N. C.
December 19	Henderson Institute	Henderson, N. C.
January 2, '70	C. S. Brown	Roanoke Rapids, N. C.
January 6	McIver	Littleton, N. C.
January 9	Henderson Institute	Roanoke Rapids, N. C.
January 13	Eastman	Roanoke Rapids, N. C.
January 16	Swift Creek	Red Oak, N. C.
January 20	Swift Creek	Roanoke Rapids, N. C.
January 23	Perquimans	Roanoke Rapids, N. C.
January 27	R. L. Vann	Ahoskie, N. C.
January 30	Brawley	Scotland Neck, N. C.
February 3	R. L. Vann	Roanoke Rapids, N. C.
February 6	Gumberry	Gumberry, N. C.
February 10	Brawley	Roanoke Rapids, N. C.
*February 13	W. S. Creecy	Rich Square, N. C.

* Subject to change

All home games will begin at 7:30 p.m.

HALIFAX COUNTY SCHOOLS

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A. G. Wilcox, Jr.
J. I. Walston, Jr.

JOHN A. CHALONER

Activity	Negro Students
Future Farmers of America	40
Future Homemakers	40
Glee Club	22
Science Club	15
School Patrol	20
Basketball	30
Student Government	30
Introduction of Vocation	65

* Please note all participants and negro

McIVER HIGH SCHOOL

A. Farmer, Principal

Littleton, North Carolina

27850

McIVER SCHOOL

Clubs		Athletics	
Journalism Club	28	Boys Basketball	22
FFA	100	Girls Basketball	17
FHA	72	Cheerleader	6
Student Gov't	18		

* Please note that all of these participants are negro.

McIVER BASKETBALL SCHEDULE

1969	November 4	Oak City	Boys and Jayvee	Home	Tuesday
	November 7	Oak City	Boys and Jayvee	Away	Friday
	November 11	Chaloner	Boys and Girls	Away	Tuesday
	November 14	Eastman	Boys and Girls	Home	Friday
	November 25	Swift Creek	Boys and Jayvee	Away	Tuesday
	December 5	Inborden	Boys and Girls	Home	Friday
	December 9	Swift Creek	Boys and Jayvee	Home	Tuesday
	December 12	Speight	Boys and Jayvee	Away	Friday
1970	January 6	Chaloner	Boys and Girls	Home	Tuesday
	January 16	Inborden	Boys and Girls	Away	Friday
	January 23	Speight	Boys and Jayvee	Home	Friday
	February 6	Eastman	Boys and Girls	Away	Friday
	February 17	Tournament	Boys and Girls	Away	Tournament
	February 18	Tournament	Boys and Girls	Away	Tournament

BRAWLEY HIGH SCHOOL

Working Organizations

October 23, 1969

Organizations	No. Enrolled
Student Council Officers and Representatives	45
Library Club	15
Honor Society	11
F. F. A.	41
F. H. A.	20
Football Team (Travel Team)	28
Basketball (Boys)	Not Selected Yet 38
Basketball (Girls)	Not Selected Yet 26
Girl Scouts	43 (Elem.)
Boy Scouts	25

* Please note that all of these participants are negro.

/s/ J. C. Bias

BRAWLEY HIGH SCHOOL

Football Schedule 1969-70

September	13	C. S. Brown at Ahoskie
	18	Windfall at Scotland Neck
	26	R. L. Vann at Ahoskie
October	3	South Ayden at Scotland Neck
	10	Open Date
	17	W. S. Creecy at Scotland Neck (Homecoming)
	25	W. S. Creecy at Rich Square
	31	Patillo at Scotland Neck
November	7	Henderson Institute at Scotland Neck

/s/ J. C. Bias

BRAWLEY HIGH SCHOOL

Basketball Schedule

1969-70

December	2	W. S. Creecy at Rich Square
	5	Gumberry at Gaston
	9	R. L. Vann at Scotland Neck
	12	C. S. Brown at Scotland Neck
	16	West Martin at Oak City
	19	Eastman at Scotland Neck
	30	Inborden at Scotland Neck
January	2	R. L. Vann at Ahoskie
	6	W. S. Creecy at Scotland Neck
	9	Open
	13	Perquimans County at Winfall
	16	West Waring at Scotland Neck
	20	C. S. Brown at Hinton
	23	Open
	27	Eastman at Enfield
	30	J. A. Chaloner at Scotland Neck
February	3	Gumberry at Scotland Neck
	6	Perquimans County at Scotland Neck
	10	J. A. Chaloner at Roanoke Rapids
	13	Inborden at Enfield
	17	

/s/ J. C. Bias

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

Board of Education

C. M. Moore, Jr., Chm.
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Board of Education

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A. G. Wilcox, Jr.
J. I. Walston, Jr.

AURELIAN SPRINGS HIGH SCHOOL

Activity	White	Negro	Indian	Total
Chorus	55		20	75
Student Government	17		4	21
Beta Club	12		4	16
Yearbook	10		5	15
Future Farmers of America	41	3	23	67
Future Homemakers of America	48	5	23	76
Cheerleaders	10		1	11
Monogram	70			70
Pep Club	53		5	58

Athletic squads and schedule not complete.

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

Board of Education

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INBORDEN HIGH SCHOOL

Activity	Students
Basketball	45
Monogram Club	45
National Honor Society	10
Future Farmers of America	133
Future Homemakers of America	101
Journalism	9
Student Government	22
Science Club	31
French Club	12

* Please note all participants are negro.

868

T. S. INBORDEN SCHOOLS
P. O. Box 457
Enfield, North Carolina 27823

L. M. WILLIAMS
ELEMENTARY PRINCIPAL
TELEPHONE 445-3525

C. WILLIAMSON
HIGH SCHOOL PRINCIPAL
TELEPHONE 445-5400

October 20, 1969

INBORDEN HIGH SCHOOL

Basketball Schedule

Dates	Teams	Sites	Players
November			
4	Carver (Pinetop)	Home	Varsity and Jr. V.
7	OPEN		
11	Swift Creek (Whitakers)	Away	Varsity & Jr. V.
13	Conetoe (Conetoe)	Away	Varsity & Jr. V.
14	West Martin (Oak City)	Home	Varsity & Jr. V.
18	Chaloner (Roanoke Rapids)	Away	Varsity & Girls
21	Gumberry (Gumberry)	Home	Varsity & Girls

December			
2	Chaloner (Roanoke Rapids)	Home	Varsity & Girls
5	McIver (Littleton)	Away	Varsity & Girls
6	Speight (Wilson)	Home	Varsity & Jr. V.
9	Speight (Wilson)	Away	Varsity & Jr. V.
12	Conetoe (Conetoe)	Home	Varsity & Jr. V.
16	Eastman (Enfield)	Away	Varsity & Girls
19	Gumberry (Gumberry)	Away	Varsity & Girls
30	Brawley (Scotland Neck)	Away	Varsity & Girls
January			
6	West Martin (Oak City)	Away	Varsity & Jr. V.
9	Eastman (Enfield)	Home	Varsity & Girls
13	Pattillo (Tarboro)	Home	Varsity & Jr. V.
15	Carver (Pinetop)	Away	Varsity & Jr. V.
16	McIver (Littleton)	Home	Varsity & Girls
24	Pattillo (Tarboro)	Away	Varsity & Jr. V.
27	Phillips (Battleboro)	Away	Varsity & Jr. V.
30	Springfield	Home	Varsity & Girls
February			
3	Swift Creek (Whitakers)	Home	Varsity & Girls
6	Springfield	Away	Varsity & Girls
10	Phillips (Battleboro)	Home	Varsity & Jr. V.
13	Brawley (Scotland Neck)	Home	Varsity & Girls

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

Board of Education	Board of Education
C. M. Moore, Jr., Chm.	C. H. Leggett
Mrs. J. C. Shearin	Mrs. A. L. Williams
W. Carlos Burt	A. G. Wilcox, Jr.
	J. I. Walston, Jr.

EASTMAN HIGH SCHOOL

Activity	Negro	Activity	Negro
Band	70	Future Bus Leaders	35
Choir	79	Vocational Club	73
Student Government	30	Cheerleaders	18
Crown and Scepture Club	40	Girls Athletic Association	24
Social Science	50	French	30
Library Club	30	Patrol	70
Student Handbook	30	Commercial	35
Dramatics	30	Band Boosters	42
Debating	30	Athletic Boosters Club	45
Future Farmers of America	124	Charm and Culture Club	20
Future Homemakers of America	90	Bus Drivers	20
Math	40	English Club	50
		Science	50

EASTMAN HIGH SCHOOL

BASKETBALL GAMES

FOR

1969-70

School	Date	Where
1. Swift Creek	Nov. 4, 1969	Here
2. Springfield	Nov. 7, 1969	There
3. Speight	Nov. 11, 1969	There
4. McIver	Nov. 14, 1969	There
5. Open	Nov. 18, 1969	
6. Springfield	Nov. 21, 1969	Here
7. Chaloner	Nov. 25, 1969	Here
8. West Martin	Nov. 26, 1969	Here
9. Open	Dec. 2, 1969	
10. Canetoe	Dec. 5, 1969	There
11. Pattillo	Dec. 9, 1969	There
12. G. W. Carver	Dec. 12, 1969	Here
13. T. S. Inborden	Dec. 16, 1969	Here
14. Brawley	Dec. 19, 1969	There
15. Chaloner	Dec. 31, 1969	There
16. Canetoe	Jan. 2, 1970	Here
17. G. W. Carver	Jan. 6, 1970	Here
18. T. S. Inborden	Jan. 9, 1970	There
19. Open	Jan. 13, 1970	
20. Pattillo	Jan. 16, 1970	Here
21. Open	Jan. 20, 1970	
22. Phillips	Jan. 23, 1970	There
23. Brawley	Jan. 27, 1970	Here
24. Phillips	Jan. 30, 1970	Here
25. West Martin	Feb. 3, 1970	There
26. McIver	Feb. 6, 1970	Here
27. Speight	Feb. 10, 1970	There
28. Swift Creek	Feb. 13, 1970	There

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

Board of Education

C. M. Moore, Jr., Chm.
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Board of Education

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J. I. Walston, Jr.

SCOTLAND NECK SCHOOL

ACTIVITY	NEGRO	WHITE	TOTAL
Football	4	22	26
Basketball	7	20	27
Bus Drivers		14	14
Cheerleaders		9	9
Jr. Varsity Cheerleaders	1	8	9
Scotsman Staff		15	15
Beta		12	12
Jr. Varsity Football	9	13	22
Monogram	4	45	49
Jr. Varsity Basketball	7	8	15
Pep Club	5	45	50
Bagpipers		12	12
Baseball	4	15	19
Track	8	16	24
Golf		7	7
Student Government	5	15	20

SCOTLAND NECK

1969-70 Football Schedule

August 29	Murfreesboro
September 5	Northampton
September 12	Williamston
September 19	Wakelon
September 26	Edenton
October 8	Gates County
October 10	Ahoskie
October 17	Louisburg
October 24	Plymouth
October 31	Hertford

SCOTLAND NECK

1969-70 Basketball Schedule

December 2	Enfield
December 5	William H. Davie
December 12	Tarboro
December 16	Enfield
December 26-27	Holiday Festival
January 6	Ahoskie
January 9	Gates County
January 13	Edenton
January 16	Plymouth
January 20	Perquimans
January 23	Williamston
January 27	Northampton
January 30	Ahoskie
February 3	Gates County
February 6	Edenton
February 10	Plymouth
February 13	Perquimans
February 17	Williamston
February 20	Northhampton
February 24-27	Conference Tournament

TENTATIVE

SCOTLAND NECK SCHOOL
GOLF SCHEDULE

1969

7 White

March 17	at Plymouth
March 24	at Scotland Neck
March 31	at Williamston
April 10	at Ahoskie (No match Easter Monday—Play on Thursday)
April 14	at Bertie
April 21	at Edenton
April 28	at Scotland Neck—Tournament
Sectionals	May 5

TRACK SCHEDULE

1969

March 26	Scotland Neck and Gates at Northhampton
April 2	Plymouth, Pasquotank and Scotland Neck at Ahoskie
April 9	Williamston and Hartford at Scotland Neck
April 16	Northampton, Plymouth and Scotland Neck at Edenton
April 23	Plymouth and Scotland Neck at Bertie

Estimated

16 Whites
8 Colored

11. (a) Have Negro pupils at desegregated schools ever been denied permission to participate in any athletic or extracurricular activity, because they have not been enrolled at such schools long enough, or for any other reason? Please provide details.

In answer to the question of whether any negro has been deprived of participation in athletic contest or extracurricular activities in a desegregated school, the answer is no. In fact, they have been encouraged to do so.

11. (b) Please state for each organized sport the schools scheduled for play during 1969-70, and indicate whether each such scheduled school is historically white or historically negro. Please state the dates of all openings in athletic schedules which have not been filled to date. For any sport in your unit which is not scheduled for at least one-third of the games with teams historically of the opposite race, please indicate the reason why a greater proportion of games with teams of the opposite race cannot be scheduled.

The High School athletic schedules in Halifax County are scheduled in most cases within the Athletic Conference that a particular school is a member of. This means that negro schools have schedules with historically negro schools and predominately white schools with historically white schools.

The reason that open dates in the schedules cannot be scheduled with teams of the opposite race is because the conference controls the schedule.

12. Please state how the expenses of operating the programs named in answer to Question 11 are met, and how and by whom uniforms and equipment are paid for.

ANSWER: All programs named in Question 11 are operated with money raised in one or more of the following ways:

a. Pupil membership dues;
b. Gate receipts at athletic contests;
c. Fund-raising events such as "Fall Festivals";
d. Other student sponsored fund-raising activities such as magazine or picture sales;
e. Donations by community athletic "booster clubs".

In none of the extra-curricular activities or athletic contests have County, State or Federal tax funds been used to pay the expense of operating any of the programs.

13. Please state whether each school in the defendant's school unit has a library, and how many books are in each library. If a library is in a school which has both elementary and high school students, the total number of books in the library, the number appropriate for use by elementary school students and the number appropriate for use by high school students. If contributions of library books have been made by private individuals or groups, please furnish details as to the date, amount, and recipient school with respect to each such contribution.

SEE ATTACHMENT

Question 13

All eighteen (18) schools in the Halifax County School Administrative Unit have a library. Listed below are the schools, their organizational pattern, and the number of books in the high school library (grades 9-12), and the number of books in the elementary library (grades 1-8). These figures were taken from each principal's annual report that was submitted to the N. C. Department of Public Instruction in May of 1969.

The Central Administrative Office does not have any records to indicate that any private individual or group have made any contribution of library books to any school library in the Halifax County Administrative Unit.

School	Organizational Pattern	Number Books Elementary Library	Number Books High School Library	Total Library Books
Aurelian Springs	1-12	2,256	1,824	4,080
Bakers	1-8	2,746		2,746
Brawley	1-12	4,097	4,694	8,791
Dawson	1-8	3,923		3,923
Eastman	1-12	4,338	3,554	7,892
Enfield Graded	1-12	2,467	2,800	5,267
Everetts	1-8	5,383		5,383
Hollister	1-8	4,250		4,250
Inborden High	9-12		3,876	3,876
Inborden Elementary	1-8	6,330		6,330
John A. Chaloner	1-12	6,197	3,264	9,461
McIver	1-12	2,956	3,935	6,891
Pittman	1-8	3,976		3,976
Scotland Neck	1-12	5,643	3,252	8,895
Thomas Shields	1-8	2,861		2,861
Tillery Chapel	1-8	3,117		3,117
White Oak	1-8	2,915		2,915
William R. Davie	1-12	6,345	3,218	9,563
Total		69,800	30,417	100,217

14. Please state which schools in the unit are accredited, and the year in which they were first accredited, by:

(a) The North Carolina Department of Public Instruction; and

(b) The Southern Association of Colleges and Schools.

SCHOOL ACCREDITATION FOR HALIFAX COUNTY

SCHOOLS	Year First Accredited By N. C. Dept. of Pub. Inst. ELEM.	HIGH SCHOOL
Aurelian Springs	1955	1926
Bakers	1968	——
Brawley	1968*	1936
Chaloner	1934	
Dawson	1962	——
Eastman	1968*	1931
Enfield	1939	1920
Everetts		——
Hollister	1968	——
Inborden		1954
McIver	1968*	1941
Pittman	1968	——
Scotland Neck	1950	1920
Thomas Shields	1967	——
Tillery Chapel	1968	——
White Oak	1968	——
William R. Davie	1954	1941

* Provisionally Accredited

Presently Halifax County has no schools accredited by The Southern Association of College and Schools—

15. Please state when the school unit first officially adopted a freedom of choice plan of student assignment. Please state what steps, if any, the school unit took to disestablish its dual system of schools prior to the adoption of the freedom of choice plan indicated above. Please state whether and when consideration was first given to adoption of a unitary zoning or pairing plan as distinguished from a freedom of choice plan, and indicate, so far as possible, what educational or other considerations led to the adoption of a freedom of choice plan.

15. Freedom of choice plan of student assignment for all pupils in all grades was first officially adopted by the Halifax County Unit on August 18, 1965, and became effective for the 1965-66 school year.

The first step to disestablish the dual system of schools took place on August 3, 1965. (See answer to question 16 and attached excerpts from Minutes of the meeting of Halifax County Board of Education held on August 17, 1964).

Consideration was given to adoption of a unitary zoning and pairing plan as distinguished from a freedom of choice form on August, 1968 after the U. S. Department of Justice had declared that the operation of schools on a freedom of choice plan had not resulted in the disestablishment of a dual system of schools. (See answer to question 22, page 166).

It was considered at the time that freedom of choice was first adopted that this method would comply with the 1964 Civil Rights laws, would bring about a more orderly transition to a unitary school system.

16. Please state (a) when the first Negro student applied to attend an all-white school in your unit; and (b) when the first Negro student was admitted to a formerly all-white school and the number of Negro students who applied and the number who were admitted to formerly all-white schools at that time.

16. (a) The first Negro student applied to attend an all-white school in Halifax County Schools on June 3, 1964.

(b) The first Negro student was admitted to a formerly all-white school at the beginning of the 1964-65 school year. Seventeen Negro students made application to a formerly all-white school, Enfield School, during the summer of 1964. Three students withdrew their applications before action was taken by the Halifax County Board of Education. Six students were assigned and the applications of eight students were disapproved in accordance with the Policy adopted by Board of Education. All six students who applied in grades 1, 10, 11 and 12 were assigned. Applications of eight students in grades 4, 5, 8 and 9 were not approved. (See excerpts from minutes of Halifax County Board of Education, August 17, 1964.)

Excerpts From Minutes of the Meeting of the Halifax County Board of Education Held on August 17, 1964.

"The following resolution was offered by C. H. Leggett, seconded by J. D. Whitehead and passed:

WHEREAS, the Halifax County Board of Education has received a number of Applications for Change of Pupil Assignment from Inborden School to Enfield Graded School; and

WHEREAS, the Board had given full consideration to each Application for Change of Assignment; and

WHEREAS, the Board desired and sought to adopt an orderly plan of reassignment that would be for the best interest and general welfare of each pupil; and

WHEREAS, the Board at its last regular meeting held on August 3, 1964, pursuant to a verbal agreement adopted at said meeting and upon Application for Change of Assignment made by their parents did reassign to the Enfield Graded School pupils in Grades 1, 10, 11, and 12, who had been assigned to Inborden School; and

WHEREAS, the Board desires to enter into its minutes the plan verbally adopted at the meeting held on August 3, 1964. Now therefore, be it

RESOLVED, that the Halifax County Board of Education adopt as a plan for the 1964-65 school term the consideration of all Applications for Change of Pupil Assignment for pupils in grades 1, 10, 11, and 12, provided the legal residence of said pupils is within the attendance area of the school for which assignment is requested and, provided further that said Application for Change of Assignment have been submitted to and received by the Halifax County Board of Education in accordance with "Rules and Regulations Governing Assignment and Enrollment of Pupils", adopted on May 4, 1956, and amended on May 7, 1957; and be it further

RESOLVED, that should this plan prove feasible the Board of Education shall give consideration to the addition of one or more grades to the plan during the 1965-66 school term and other grades during subsequent school terms."

17. Please state whether any white students in the school uint have attended or are currently attending a formerly all-Negro school, and, if so, how many, when, and at which school or schools.

ANSWER: To the best of our knowledge one white student is attending a formerly all-Negro school. The student is in grade four at White Oak School.

18. Please describe any increase or decrease in the geographic area within the jurisdiction of the defendant's school unit from 1964 to the present, except the changes brought about under authority of Chapter 31, 1969 Sessions Laws. For each such change give the other person, governmental unit, or school administrative unit involved, the schools or other properties involved, the location, amount of acreage, number of classrooms, number of each type of non-classroom structures, number of pupils by race, number of teachers by race, and amount of funds transferred. Please indicate with respect to your answers to the aforesaid question the school administrative unit(s) from which transferred, and the school administrative unit(s) to which transferred. Please state a brief summary description of leases, agreements, cor-

respondence, notes, minutes and other writings relating to or containing such changes, and the name, address and any official position of persons known to be in possession, custody or control of such writings. Please state the name, address and any official position of any person not an employeed of the defendant, known to you who possesses information about any increase or decrease in the geographic area of the defendant's jurisdiction from 1954 to the present.

18. Decrease and increase in the geographic area within jurisdiction of the Halifax County School Unit are as follows:

(a) All area consisting of the town of Halifax and surrounding territory was transferred from the Halifax County Administrative Unit and annexed to the Weldon City Administrative Unit at the beginning operation in the Weldon City Administrative Unit. The schools, land and buildings located in this area were transferred by a favorable vote of the qualified voters within the annexed area by an election held on June 23, 1956.

School	Location	Acres	Class-Rooms	Other Structures	Students	Teachers	Funds Transferred
Halifax Elem.	Halifax	6	4	Auditorium & Lunchroom	74 W	3 W	None
Andrew Jackson	Halifax	1	4	None	183 N	4 N	None
Pea Hill	Near Halifax	3½	4	None	145 N	4 N	None
Allen Grove	Near Halifax	2	3	None	46 N	4 N	None

(b) The school site consisting of 10 acres adjacent to the Halifax County School Unit was transferred from the Roanoke Rapids City Unit and annexed to the Halifax County Unit by the State Board of Education upon joint request and agreement betwen the Boards of Education of Roanoke Rapids City Unit and Halifax County Unit on July 1, 1966.

The John Armstrong Chaloner School, located in Roanoke Rapids was the only school in this area. The land, building and contents were transferred by Lease Agreement between the two Boards of Education. (See Lease Agreement and refer to answer to Question 2). There are 37 classrooms, gymnasium, auditorium and a residence occupied by a member of the school faculty. Seven hundred ninety (790) students and thirty-six (36) Negro teachers were transferred.

Upon agreement by the Roanoke Rapids Board of Education and the Halifax County Board of Education, the State Board of Education transferred the sum of $70,150.70 from State Schools Facilities Fund from the Roanoke Rapids City Unit to the Halifax County Board of Education.

The lease agreements, correspondence, notes, minutes, and other writings relating to these charges are in possession of W. Henry Overman, Superintendent, Halifax County Schools, and Dr. A. Craig Phillips, State Superintendent of Public Instruction and Secretary of the State Board of Education.

NORTH CAROLINA

HALIFAX COUNTY

THIS LEASE AND AGREEMENT, made and entered into this the 1st day of July, 1966 by and between the Roanoke Rapids Graded School District, party of the first part, and the Halifax County Board of Education, party of the second part.

WITNESSETH:

That subject to the terms and conditions hereinafter set forth, the party of the first part does let and lease unto the party of the second part the following described lot or parcel of land located in Roanoke Rapids Township, Halifax County, North Carolina, together with the Buildings located thereon and the personal property located in said buildings, to-wit:

> All that tract or parcel of land situate in the City of Roanoke Rapids, Halifax County, North Carolina adjoining the lands of C. A. Wyche, Chockoyotte Creek and the lands of J. A. Chaloner, and more particularly described as follows: BEGINNING at the Southwest corner of the lands of C. A. Wyche and running N. 36° W. 960 feet to an oak post, thence S. 54° W. 603 feet to a hickory post on Chockoyotte Creek, thence down main run of said creek to a pine post on said creek, thence N. 54° W. 816 feet to the point of beginning, containing 10 acres, more or less; it being all of the identical real property and improvements Constituting the present John Armstrong Chaloner School Campus.

The terms and conditions of this lease are as follows:

1.

This lease shall begin on July 1, 1966 and shall continue until the 30th day of June 1967, and the consideration and rental; moving from the party of the second part to the party of the first part shall be the payment of the sum of one ($1.00) Dollar per annum.

* * * *

and the further payment of the annual insurance premiums on the aforesaid buildings and personal property.

2.

In the event that the parties hereto desire to renegotiate the lease from year to year, the Halifax County Board of Education must notify the Roanoke Rapids Graded School District at least ninety days prior to June 30th of any given year of its desire to continue the terms of this lease, and the Roanoke Rapids Graded School District shall give its reply within fifteen days from the date of notification of its decision as to this proposed renewal.

3.

The party of the first part shall carry fire and extended coverage insurance on the buildings located on said property and on its personal property located in said buildings and the party of the second part shall reimburse the party of the first part semiannually for the costs of said premiums, such reimbursement to be made within thirty days from the date of receipt of an invoice from the party of the first part.

4.

It is agreed that the party of the second part shall pay all of the usual operating costs during the tenure of this lease, including water, lights and other utilities.

5.

It is agreed that during the term of this lease that two Mobile Classroom Units owned by the first party shall remain on the premises to be used by the party of the second part in addition to the other buildings and equipment, and that one activity bus belonging to the party of the first part shall remain on the premises for use of the pupils who attend John Armstrong Chaloner School.

6.

It is agreed that the items of equipment and furniture that shall remain on the premises during the tenure of this lease shall be determined by the respective superintendents of the party of the first part and the party of the second part.

7.

The party of the second part agrees to assume all liability for any damage to the personal property that remains upon the leased premises during the tenure of this lease.

8.

The party of the second part agrees to maintain the buildings located on said premises, in as good a state of repair as they are at the date of this indenture and to deliver up the same at the end of the term in as good order and condition as they are at this date, reasonable wear and tear, fire and other unavoidable casualty, or Acts of God excepted.

9.

It is further agreed that the party of the first part may inspect the property periodically and effect any necessary repairs if the party of the second part shall fail to make such repairs within a reasonable time, it being understood that any such repairs or upkeep shall be paid for by the party of the second part.

10.

It is further understood and agreed that, during the term of this lease, the party of the second part shall indemnify and hold harmless the party of the first part from any loss or expense whatsoever that might accrue or result from personal injury or damage arising out of the operation of John Armstrong Chaloner School or out of any of its activities, including but not limited to those involving the aforesaid activity bus.

IN TESTIMONY WHEREOF, the said parties have executed this contract in duplicate originals, one of which is retained by each of the parties, this the day and year first above written.

ROANOKE RAPIDS GRADED SCHOOL DISTRICT

By /s/ George Nethercutt
Chairman

ATTEST:

/s/ J. W. Talley
Secretary

HALIFAX COUNTY BOARD OF EDUCATION

ATTEST:

/s/ W. Henry Overman
Secretary

NORTH CAROLINA

HALIFAX COUNTY

Before me, Lucille R. Dickens, personally appeared J. W. Talley, being by me duly sworn, says that he knows the common seal of the Roanoke Rapids Graded School District, and is acquainted with George Nethercutt, who is Chairman of Roanoke Rapids Graded School District, that he, the said J. W. Talley, is the Superintendent of Roanoke Rapids Public Schools, and is Ex-Officio Secretary of Roanoke Rapids Graded School District; and that he saw the Chairman sign the foregoing instrument, and that he, the said secretary, affixed said seal to said instrument, and that he, J. W. Talley, signed his name in attestation of the execution of said instrument in the presence of the said Chairman of the Roanoke Rapids Graded School District.

This the 14th day of September, 1966.

/s/ Lucille R. Dickens
Notary Public

My commission expires:

[Illegible]

NORTH CAROLINA

HALIFAX COUNTY

Before me, Doris W. Netherland, personally appeared W. Henry Overman, being by me duly sworn, says that he knows the common seal of the Board of Education of Halifax County and is acquainted with C. M. Moore, Jr., who is Chairman of Board of Education of said County; that he, the said W. Henry Overman, is the Superintendent of Public Schools of Halifax County, and is Ex-Officio Secretary of Board of Education, and that he saw the Chairman sign the foregoing instrument, and that he, the said secretary, affixed said seal to said instrument, and that he, W. Henry Overman, signed his name in attestation of the execution of said instrument in the presence of the said Chairman of the Board of Education of said County.

This the 14 day of September, 1966.

/s/ Doris W. Netherland
Notary Public

My commission expires:
Spt. 9, 1968

19. Please state what surveys concerning the school unit, in addition to the survey published in December 1968, have been made by the North Carolina state educational officials since 1963, and give the dates and the subject matter of them. Please state the number of (a) maps and (b) school organization plans which were prepared by employees of the defendant since the date on which the 1968 survey was conducted and which pertain to school desegregation or reorganization of schools, but do not include the final map and plan sent to the plaintiff's counsel on February 7 and 10, 1969.

ANSWER: There have been no surveys related to school desegregation or reorganization made by the North Carolina state educational officials since 1963, with the exception of the study conducted by the Division of School Planning of the State Department of Public Instruction in 1968. You have copies of the 1968 survey.

The only map and school organization plan ever prepared and presented to the Halifax County Board of Education by these employees other than free-choice plans was the map and organizational plan which the Board approved and submitted to you on February 7 and 10, 1969.

20. Please state whether any new school buildings have been constructed, and whether any substantial additions have been made to any existing schools, since the beginning of the 1964-65 school year, and what new construction is presently planned, if any. Give the details of all such construction, including the name and location of the school involved, the dates or projected dates of the beginning and completion of the work, and the function, number and capacity of the rooms involved.

SEE ATTACHMENTS

Question 20

No new schools have been constructed by the Halifax County Schools since 1964. However, the board is in the process of planning for the construction of a new consolidated high school to serve all the high school students in the northwestern section of Halifax County. This school will be located on N. C. 48 about six miles north of Aurelian Springs.

Listed below are the schools where major additions have been constructed by the Halifax County Board of Education since 1964.

School	Function of Additional Construction	Beginning Date of Project	Completion Date of Project	Number and Capacity of Room Involved
Brawley	Food Service Facility (Approx. 7525 sq. ft.)	1967	1968	Designed to feed 800
Eastman	Cafetorium (Approx. 7524 sq. ft.)	1967	1968	Designed to feed 800
Hollister	Cafetorium (2,400 sq. ft.)	1965	1966	Designed to serve approx. 300
Hollister	Library (1,200 sq. ft.)	1965	1966	Designed to serve approx. 300
McIver	Six (6) Primary Classrooms Each classroom has 950 sq. ft.	1963	1964	Designed to serve approx. 150 students
McIver	Cafetorium (Approx. 9,009 sq. ft.)	1968	1969	Designed to serve approx. 600 students

White Oak	Cafetorium (2240 sq. ft.)	1965	1966	Designed to serve 300 students
White Oak	Library (1228 sq. ft.).	1965	1966	Designed to serve 300 students
White Oak	Classroom (819 sq. ft.)	1965	1966	Designed to serve 30 students
Inborden	Cafetorium (6650 sq. ft.) (under construction)			Designed to serve approx. 1000 students

21. QUESTION:

With regard to any construction currently underway or planned; as set forth in the answer to question 20, please state whether its probable effect upon the disestablishment of the dual school system in the unit was considered and, if so, describe in detail the nature of the consideration given and of the determination made.

21. ANSWER:

A new comprehensive high school is being planned that will consolidate the William R. Davie, Chaloner, Mc Iver and Aurelian Springs High Schools. When this building is completed it will eliminate the dual school system for high school students in the Northwestern section of Halifax County who are in attendance at the above county schools.

This will be the only high school operated by the Halifax County School System in this section of the County and will serve all high school students in this area.

The approximate racial composition planned for this school is fifty-four (54%) per cent Negro and forty-six (46%) per cent Caucasion.

Pupils attending this school will have a greater variety of course offerings and a better balance of programs of student activities.

In planning for the construction of this high school a special committee was appointed by the Board of Education to include Board of Education members, Advisory School Board members, PTA members, the Superintendents and his staff, to study, plan and make recommendations for this construction.

A public hearing was conducted for the purpose of giving the general public a chance to register their complaints and suggestions.

22. Please describe in detail what, if any, changes have been made in the operation of the school unit since 1954 as a result of any court decisions, statutes, or administrative regulations or guidelines pertaining to desegregation. Please identify the particular decision, statute, regulation or guideline in response to which such change was made.

22. Integration began in Halifax County School Administrative Unit at the beginning of the 1964-65 school year when six Negro students were assigned to and attended the Enfield School, formerly an all-white school. Other students were allowed to attend any school in the school system provided they were in first, tenth, eleventh, twelfth, applied within a stated time or moved from another school unit.

After the enactment of the Civil Rights Act of 1964, schools were operated in 1965-66 school year under freedom of choice plan prepared by the local school unit and approved by the U.S. Office of Education. During the 1966-67 and 1967-68 school years the schools operated under freedom of choice plans and guidelines prepared by the U. S. Office of Education.

On July 2, 1968, Mr. Francis Kennedy, Attorney for Civil Rights, United States Department of Justice, visited our office and stated that the Department of Justice had received a complaint concerning the operation of schools in the Halifax County School Administrative Unit.

On July 30, a letter was received from Mr. Stephen J. Pollak, Assistant Attorney General, Civil Rights Division, U. S. Department of Justice, stating that the complaint had been made by Negro parents residing in Halifax County School Unit; that the investigation revealed insufficient steps had been taken by the Halifax County School Unit to disestablish the dual system of schools and that the Halifax County Board of Education should advise within ten days the steps the Board was prepared to eliminate the conditions described.

Representatives of the Board of Education conferred in Washington, D. C. with representatives of the Civil Rights Division of the U. S. Department of Justice, and the Board representatives were told that substantial progress in both students and teachers must be made toward desegregation of the school system at the beginning of the 1968-69 school term and that a plan must be submitted to completely desegregate the school system not later than the 1969-70 school year.

The Board of Education submitted a proposal that would transfer approximately 600 additional students

and 20 additional teachers to schools other than their predominant race at the beginning of the 1968-69 school term; to take further steps for the 1969-70 school year; and for complete desegregation of the school system not later than the 1970-71 school term.

After receipt of notification that the U. S. Department of Justice had rejected the original proposal of the Board of Education unless the plan provided for complete desegregation and complete compliance with the provisions of the Civil Rights Act of 1964 at the beginning of the 1969-70 school year, the Board submitted another plan that provided for the transfer of 7th and 8th grades from three all Negro schools (approximately 397 additional students) to predominantly white schools; the transfer of 7th grade from one all Negro school (approximately 116 additional students) to a predominantly white school; to transfer 18 additional Negro teachers from all Negro schools to predominantly white schools; to assign the transferred students and teachers to classes without regard to race or color; and to present a plan on or before March 15, 1969 for complete disestablishment of the dual school system and complete compliance with the provision of the Civil Rights Act of 1964 at the beginning of the school year, 1969-70.

By letter dated August 22, 1968, Mr. Stephen J. Pollak accepted the revised plan submitted by the Board of Education.

During September, 1968, the Division of School Planning of the N. C. Department of Public Instruction made a survey of the school unit and made its report on December 2, 1968. This report is on file with the Division of School Planning.

The recommendations in the Survey Report, suggestions and recommendations submitted by various individuals and groups throughout the County have been taken into consideration.

A series of Board of Education meetings, regular and special, have been held during December, January and February for considering a plan to be presented to the Justice Department.

An unofficial visit by Board Attorney, C. Kitchin Josey, Associate Superintendent Ben F. Currin and I was made to Washington on February 6th during which we discussed with officials in the Justice Department some of the recommendations and suggestions that had been made to the Board of Education. On February 8th, the Board of Education adopted a plan and submitted that plan to the Justice Department on February 10 for their consideration.

On March 3, 1969, a letter was received from Mr. Jerris Leonard, Assistant Attorney General, Civil Rights Division, stating that "he had reached the conclusion that the plan does not comply with the requirements of the Fourteenth Amendment and the Civil Rights Act of 1964, and that I therefore cannot consent to its implementation."

In meeting held on March 3, 1969 the Halifax County Board of Education took action to operate schools beginning with the 1969-70 school year on the basis of freedom of choice for every student.

23. Please state in detail what, if any, non-racial administrative difficulties, unrelated to community attitudes, would be encountered should the school unit abandon its free choice plan and implement a school desegregation plan based on pairing or zoning or both. Please also state the time estimated to resolve these difficulties. Please state whether a new plan based on "pairing" or "unitary geographic attendance zones" could be completely implemented at mid-year of the 1969-70 school year, either for the high schools or the elementary schools, or both, and state in detail all of the facts, if any, making conversion to such a plan at such a time impracticable.

ANSWER: Non-racial administrative difficulties that the Halifax County School Unit will encounter if they change from a free choice school plan to a new plan of school organization either "pairing" or "unitary geographic attendance zones" at mid-term of the 1969-70 school year:

a. Some pupils would have to be re-assigned a different teacher and a different school during the middle of the school year. This is not believed to be educationally sound nor psychologically desirable for the children involved.

b. Teachers would be inconvenienced by being assigned to another school which may be further from their residence.

c. State accounting procedures, whereby each teacher is assigned a budget position number by school, would be most confusing when the new teacher assignments are made.

d. Bus routes would have to be determined for 107 buses. An example of this difficulty was seen when it took four days to set up a 10-bus transportation system for the Scotland Neck School at the beginning of the year.

e. Moving the numerous textbooks and library books, audio-visual equipment, furniture, vocational equipment, athletic equipment, and instructional supplies would be a herculean task.

f. Scheduled athletic events could not be fulfilled if high schools are paired.

To convert to any new plan of school organization at mid-term would in our opinion require closing down school for several weeks in order to avoid complete chaos. It would probably require closing school longer than two weeks to insure an orderly transaction.

It has been estimated by members of the central administrative staff that at least 3 to 6 months of concentrated planning would be needed in order to hope for any measure or orderly school operation if there are major changes in the schools' organization.

[Caption Omitted]

MEMORANDUM OPINION AND ORDER

LARKINS, District Judge:

The Court having conducted a Pre-Trial Conference in Chambers in the Federal Building at Trenton, North Carolina on Monday, November 3, 1969, and having considered and decided all motions pending therein, and having requested that the parties present the issues to be determined by the Court, and the plaintiff having proposed an Interim Plan in accord with the State School Survey which plaintiff now finds legally acceptable, the Court thereupon took under advisement plaintiff's motion for immediate implementation in accord with *Alexander* v. *Holmes County Board of Education*, —— U.S. ——, 24 L.Ed.2d 19, 90 S.Ct. ——, [No. 632], (5th Cir., October 29, 1969), the Court directed that the Board meet and reconsider the Interim Plan recommended by the State Division of School Planning of the State Department of Public Instruction, to become effective at the end of the present semester and notify the Court within 30 days;

The Court now having received from counsel for the defendants, under date of November 21, 1969, and having considered a nine-page report entitled, "Problems and Difficulties Involved in the Implementation at Mid-Year of the Interim Plan Recommended by the State Division of School Planning of the State Department of Public Instruction," together with a Summary Of Reasons For Not Implementing The Interim Plan At Mid-Year In The Halifax County Schools, together with a letter addressed to the Court dated November 21, 1969 by the Chairman of the Halifax County Board of Education, a copy of a letter dated November 7, 1969 from A. Craig Phillips, State Superintendent of Public Instruction to Mr. Henry Overman, Superintendent, Halifax County Schools, and a letter from the Scotland Neck School signed by J. S. Wooten, Jr., Principal, Scotland Neck

High School and Board members and others dated November 14, 1969;

It is now therefore ORDERED and DIRECTED that the Board of Education of Halifax County submit on or before December 15, 1969 a Plan to terminate the present dual school system in Halifax County at once and to operate only unitary schools in accord with the provisions of *Beatrice Alexander, et al.* v. *Holmes County Board of Education, et al.*, —— U.S. ——, 24 L.Ed.2d 19, 90 S.Ct. ——, [No. 632], (5th Cir., October 29, 1969).

It is FURTHER ORDERED and DIRECTED that a hearing upon said Plan shall be held in Raleigh, North Carolina in the United States Courtroom, Thursday, December 18, 1969 and all counsel are notified to be present.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Trenton, North Carolina
November 24, 1969

[Caption Omitted]

ORDER

This Court having ordered the defendant Halifax County Board of Education, on November 24, 1969, to submit a plan to terminate the present dual school system in Halifax County at once and to operate only unitary schools in accord with the provisions of *Alexander* v. *Holmes County Board of Education*, —— U.S. ——, 24 L. Ed. 2d 19, 90 S. Ct. —— (No. 632 October 29, 1969), by December 15, 1969, and if appearing that the Court will need statistics in order to evaluate the proposed plan and determine whether or not it meets constitutional standards, it is therefore ORDERED, ADJUDGED and DECREED that this Court's Order of November 24, 1969 be amended as follows:

The Board of Education of Halifax County is further directed to submit along with its plan on December 15, 1969, to terminate the present dual school system in Halifax County, projected statistics for student bodies and faculty by race and school, and a map depicting any proposed zones or attendance areas for each school. The clerk is directed to serve copies of this order on all counsel of record.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Trenton, North Carolina
This 4th day of December, 1969.

[Caption Omitted]

MOTION FOR LEAVE TO INTERVENE

The applicants; PATTIE BLACK COTTON and EDWARD M. FRANCIS, public school teachers of Halifax County; and RODNEY BENNETT, a minor, by his father and next friend, LANELL BENNETT; ATTIE BUTLER and BESSIE BUTLER, minors by their parents and next friend, Mr. and Mrs. ALLEN BUTLER; CURTIS CAINE, WILLIE CAINE, and JOSEPH CAINE, minors, by their mother and next friend, Mrs. LIZZIE E. CAINE; LEORY CHERRY and TIMMY CHERRY, minors, by their mother and next friend, Mrs. THERESA CHERRY; ANDREW COFIELD, a minor, by his mother and next friend, Mrs. MARTHA ANN COFIELD; FRANKLIN COTTON, CAROLYN COTTON, REGINALD COTTON, BETHEL COTTON, ANNIE COTTON and ARCHIE COTTON, minors by their grandmother and next friend, MRS BLANCHE COTTON; LARRY DANCY a minor, by his mother and next friend, Mrs. MARY LOU DANCY; GEORGETTA DAYE and CURTIS DAYE, minors by their mother and next friend, Mrs. ANELIZA DAYE; LILIA DEMPSEY, JERONE DEMPSEY, GLADYS DEMPSEY and CURTIS DEMPSEY, minors, by their parents and next friend, Mr. and Mrs. WILLIAM DEMPSEY; VICKIE DELOATCH, a minor by her parents and next friend, Rev. and Mr. C. M. Deloatch; LAFETTE DICKINS, a minor, by his mother and next friend, Mrs. MARY L. DICKINS; FRED DOUGLAS, a minor, by his grandmother and next friend, Mrs. ANNIE SMITH; WILLIAM EARL, a minor, by his grandmother and next friend, Mrs. LENORA WHITAKERS; DOSHIA EVANS, MIMIE EVANS, LISA EVENS and JAMES EVANS, minors, by their parents and next friend, Mr. and Mrs. JAMES EVANS; GEORGETTE HALL and DOUGLAS HALL, minors, by their parents and next friend, Mr. and Mrs. JOHN HALL; JEAN HANNON, TRUDY HANNON, LUCILLE HANNON, JOYCE HANNON and MARY HANNON, minors, by their mother and next friend, Mrs. EIZABETH HANNON; DIANE

HEIKE, DORA HEIKE and JIMMY HEIKE, minors, by their grandmother and next friend, Mrs. MARGARET HEIKE; CYNTHIA HILL, CHERYL HILL, REID HILL and VALERIE HILL, minors, by their father and next friend, JESSIE R. HILL; ARTWOOD JONES, a minor by his mother and next friend, Mrs. LUCILLE JONES; JEFFERY JONES and MATTIE JONES, monors, by their mother and father as next friend, Mr. and Mrs. ARTHUR JONES; YVONNE JONES and MATTIE JONES, minors, by their mother and next friend, Mrs. LOSSIE JONES; MARILYN KNIGHT, a minor by her mother and next friend, Mrs. CLASSIE KNIGHT; CHARMANGE LOFTON, a minor, by her mother and next friend, Mrs. ROSA J. LOFTON: EDDIE PERKINS and MATTHEW PERKINS, minors, by their father and next friend, CLINTON PERKINS; CHARLES PITTMAN and BRUCE PITTMAN, minors, by their father and next friend, OLLIE PITTMAN: JIMMY PITTMAN, a minor, by his mother and next friend, Mrs. MINNIE PITTMAN; HENRY POWELL, a minor, by his mother and next friend, Mrs. EULA MAE POWELL; EMMA POWELL, a minor, by her mother and next friend, Mrs. EMMA POWELL: SYBIL RANDOLPH, a monor, by her mother and next friend, Mrs. HELEN RANDOLPH; WILLIAM REID, PECOIS REID, GWENDOLYN REID and ANGELA REID, minors, by their parents and next friend, Mr. and Mrs. PERCY REID; RAYMOND SMITH, JR., a minor, by his mother and next friend, Mrs. ORAL LEE SMITH; RICKY SMITH, a minor, by his parents and next friend, Mr. and Mrs. CLEVELAND SMITH; DONALD WHITE, ERNEST WHITE and DONALD WHITE, minors by their parents and next friend, Mr. and Mrs. ERNEST WHITE; CARLTON WHITAKERS, DONALD WHITAKERS and EARL WHITAKERS, minors by their mother and next friend, Mrs. CARRIE WHITAKERS: SPENCER WILLIAMS, JR., LORI WILLIAMS and JOSEPH WILLIAMS, minors by their father and next friend, Rev. SPENCER WILLIAMS; *All residents of the area and Town of Scotland Neck.* and ERNEST L. ALSTON, a minor, by his grandparents and next friend, Mr. and

Mrs. TOM M. ALSTON; GREEN BANKS, WINFRED BANKS, DENNIS BANKS, CYNTHIS BANKS and SAMUEL BANKS, minors, by their parents and next friend, Mr. and Mrs. ROBERT E. BANKS; BARBARA D. GAINS, a minor, by her parents and next friend, Mr. and Mrs. SAM D. GAINS; ALONZA MILLS, DENNIS MILLS, JAMES MILLS and ANGELA MILLS, minors, by their parents and next friend, Mr. and Mrs. ALEXANDER MILLS; BURTON PRICE, DONNA PRICE and CARSIE F. PRICE, minors, by their parents and next friend, Mr. and Mrs. BALDY D. PRICE, JR., all residents of the LITTLETON-LAKE GASTON SCHOOL DISTRICT in Littleton Township, Halifax County, North Carolina, on behalf of themselves and all other black or Negro Public School Teachers, Parents and Students similarly situated, and pursuant to Rule 24 of the Federal Rules of Civil Procedure, move the Court for leave to intervene as PLAINTIFFS in the above entitled action in order to assert the claims set forth in their proposed Complaint of which a copy is hereto attached; and in support of this Motion, the applicants respectfully represent unto the Court as follows;

1

That the applicants claims and contentions and those of the main action have questions of law and facts in common and the relief sought by the applicants may be granted as part of the relief the Plaintiff is entitled to in the main action rather than to have the same resolved in separate actions upon the same ground of complaint, to wit; the policy and practice of discriminating against the applicants and members of their class on the basis of race and color in the creation of separate school districts and in the operations and administration of the Halifax County Public Schools as affecting both black teachers and pupils.

2

That the main action and Complaint by the United States of America, represent the applicants but the representation does not include certain available grounds of

complaint that may be asserted in the cause and which the applicants desire to be asserted in order to be entitled to relief based upon events that transpired subsequent to the filing of the Complaint by the U. S. Government and to present additional views in support of the claim of the United States of America.

3

That the applicants, through THE EASTERN COUNCIL ON COMMUNITY AFFAIRS, representing twenty-five eastern North Carolina counties, opposed the creation of the school separation districts, by opposing The Scotland Neck School Separation Bill; the Littleton,-Lake Gaston Separation Bill and the Warrenton School Separation Bill, Chapters 31, 628 and 578, 1969 Sessions Laws, upon racial and constitutional grounds when the bills were being considered by the State Legislature and desire to show unto the Court the racism in the enactment of the bills as part of the legislative history of the same.

4

That the applicants are informed and believe and so allege that the State of North Carolina, through its Attorney General, has moved to intervene in the main action and the applicants desire that the Court and the State of North Carolina consider the matters asserted in the proposed Complaint on the ground that the State of North Carolina owes a duty to the applicants to help relieve the applicants from the matters complained of in the proposed complaint attached hereto.

/s/ James R. Walker, Jr.
JAMES R. WALKER, JR.
501 West 3rd Street
Weldon, N. C.
SAMUEL S. MITCHELL
126½ E. Hargett Street
Raleigh, N. C.
Attorneys for Applicants for Intervention.

NORTH CAROLINA

HALIFAX COUNTY

VERIFICATION

JAMES R. WALKER, JR., being first duly sworn, deposes and says; that he is one of the attorneys for the foregoing applicants for intervention; that as attorney, he and Samuel S. Mitchell have powers of attorney from each of the adult applicants and the next friend of the minors; that under said power of attorney, they have the authority to represent the applicants in this matter and to file action on behalf of each of the applicants as listed and named in the Motion and the proposed complaint in intervention; that he has read and knows the content of the foregoing Motion to intervene; that the same is true of his own personal knowledge, except those matters stated and alleged upon information and belief and as to those matters, he believes it to be true.

/s/ James R. Walker, Jr.
JAMES R. WALKER, JR.
Affiant.

Sworn to and subscribed before me this 1st day of November, 1969.

/s/ Helen C. Lewis
HELEN C. LEWIS, Notary Public
My Commission Expires March 6, 1970

[17] HENRY L. HARRISON, called as a witness by the defendant Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q Mr. Harrison, will you give the Court your full name, please, sir?

A Henry Lee Harrison.

Q Mr. Harrison, where were you educated?

A I was educated in Scotland Neck, North Carolina, and then went on to North Carolina State University.

Q You attended public school in Scotland Neck?

A Yes, sir.

Q At that time was it a part of the county unit?

A No, sir. That was a city administrative unit during those years.

Q Now, have you served on the Halifax County Board of Education?

A Yes, sir.

Q How long?

A I was appointed to the Halifax County Board of Education in September of 1955 and served until December of 1968.

Q At the time that you went on the board, how many schools were there in the county system?

[18] A There were approximately 63 schools in Halifax County.

Q And today how many are there, approximately?

A Seventeen, sir.

Q Now, when was the last county-wide school bond issue in Halifax County?

A The last one was the state school bond issue.

Q I mean the last county school bond issue.

A The last county school bond issue was in 1957—May of that year, I believe.

Q And how much was that school bond issue for?

A Well, the school bond issue was to net the three units in the county $3-million. The school board as such,

all three school boards as such determined the needs of the county at $4-million $300-thousand, but we arrived at a plan on a pay-as-you-go basis that we would sell $3-million and maintain a capital outlay rate to provide the other pay-as-you-go for $1-million $300-thousand.

Q Now, when you say the "three units," what units do you refer to?

A I refer to Weldon, Roanoke Rapids, and the Halifax County unit.

Q And what was the annual capital outlay budget rate in the county at that time?

A The rate at that time, Mr. Josey, was 60¢ [19] capital outlay per $100.

BY JUDGE BUTLER:

Q That 60¢ was simply the debt service on these bonds?

A Capital outlay is debt service, sir. No, sir. Now, when the bonds were voted, the agreement was that the 60¢ rate was to be maintained, the debt service to be taken out of the 60¢ and the remainder of the capital outlay of that 60¢ to the $1,300,000 pay-as-you-go part of that.

BY MR. JOSEY:

Q Now, what did you and the other members of the county school board do to get this bond issue passed?

A Well, I personally spoke on two radio stations throughout the county; I spoke to a number of clubs in and around the City of Scotland Neck, Women's clubs, the Lions, Kiwanis, and people of that nature, and campaigned on the basis that this rate would be maintained, and that we were not $3-million short, but $4-million $300-thousand short in our building program.

Q Now, what was the approximate total vote in the county on these school bonds?

A Approximately 4,000 votes.

Q And approximately how many votes for and how many against?

A There were about—it was carried by 388 votes in [20] the county.

Q Out of around 4,000 total votes, it was carried only by 300 votes?

A About 388, yes, sir.

Q And how did Scotland Neck go on that bond issue?

A Scotland Neck voted for it by a majority of 155 votes.

Q And approximately what percentage of the total vote is there in Scotland Neck or was at that time?

A Oh, I would say approximately 10%.

Q So that Scotland Neck voted 155 of the total majority in the entire county of 388; isn't that correct?

A That's correct. In that bond issue, Mr. Josey, there were only four precincts out of seventeen that voted for the bond issue.

Q What in relationship to rural and town precincts —how did that stand on the vote?

A Well, the majority of the rural precincts voted against it. In fact the City of Roanoke Rapids and the City of Scotland Neck were the ones that really carried it. Now, I think Enfield had a small majority too for it.

BY JUDGE LARKINS:

Q This was in May of '57?

A May of 1957, yes, sir.

[21] BY MR. JOSEY:

Q Now, what did the county commissioners do shortly thereafter concerning the tax rate, after the passage of the bond issue?

A Well, after the passage of the bond issue, the county commissioners—when we presented our budget to them for the coming year, we had the 60¢ capital outlay rate.

Q When you speak of "we," you are talking about the Halifax County Board of Education?

A Well, all three boards appeared together before the county commissioners. We were using the 60¢ capital outlay rate as the basis for beginning to repay these bonds and to meet this pay-as-you-go basis. The county commissioners said, well, you can't spend all of this money at this time, and said, "Rather than raise taxes,

would you let us use 10¢ of your capital outlay funds for revaluation," which was the first revaluation that I know of in Halifax County, "and we will repay it back." Reluctantly the boards agreed to that and had them to adopt a resolution, which is still in their minutes and records, I believe, concerning that. However, this money has never been repaid nor has the 60¢ capital outlay been maintained since 1957.

Q In fact, it has been gradually decreasing ever since that time?

[22] A Yes, sir.

Q Now, out of the 1957 bond issue, how much approximately did the County Board of Education get of that $3-million?

A Approximately $2-million, sir.

Q From 1957 until today, how much of that county bond money has ever been spent on any facility within the corporate limits of the Town of Scotland Neck?

A None.

Q I believe there was a state-wide school bond issue in 1963, is that correct?

A Yes, sir.

Q And do you recall approximately how much money the Halifax County school administrative unit obtained from that state bond issue?

A Approximately $1-million, sir.

Q How much, if any, of that state school bond money, that million dollars, was spent on facilities within the corporate limits of the Town of Scotland Neck?

A None has been spent there. In fact, that money is still under Dr. Pierce's control, although I understand it has been obligated to go to outside.

BY JUDGE BUTLER:

Q When was that money made available?

A Right after the state-wide bond issue in 1963, sir.

[23] Q And none of it has been spent?

A Well, I think the county has spent probably $100,000 on maybe one or two projects. I think the county superintendent could give you those figures. I believe the figure that is remaining in Raleigh today is approximately $827,000 or thereabouts.

BY MR. JOSEY:

Q Now, what are the conditions of the buildings and classrooms there in the Town of Scotland Neck since your tenure on the Halifax County Board and today?

A Well, when I went on the county board, or rather, when we went into the county system—when the Scotland Neck unit went into the county system, our buildings were comparatively new, compared to the remainder of the county units; and for a number of years they were working to bring up the standards of the other schools around. Now every survey that has come since I have been a member of this board has stated that the facilities in Scotland Neck were the worst of any in the county. In fact, out of all the classrooms available in Scotland Neck, the last 1968 survey shows that only four are standard.

Q And all others are below standard?

A Are below standard—substandard.

BY JUDGE LARKINS:

Q How many are there?

[24] A There are about 28, sir.

BY JUDGE BUTLER:

Q Now, I don't know that this has anything to do with this hearing, that is, my question, but I am curious. Mr. Harrison, if Halifax County has approximately $900,000 in money available for school construction since 1963, and there is a need for expenditure of money for that purpose, has any effort been made on behalf of the people of Scotland Neck to prize some of that money out of the board of education or the county commissioners or whoever has it?

A Yes, sir, there has.

Q And I assume without success.

A Well, sir, in 1966 I appeared along with members of the Halifax County Board of Education in Dr. J. L. Pierce's office, Division of School Planning, in Raleigh, on two separate occasions, at which time we requested that $750,000 of that money be turned over to build an integrated high school in 1966 in the Scotland Neck area.

Q No legal action was taken?

A No, sir, we didn't take any legal action. They refused to do it on the basis that they felt they had some things up in the other parts of the county which were more important right then, your Honor.

Q But as I understand you, the money hasn't been spent anywhere?

[25] A It's sitting there right now as far as I know, yes, sir.

Q Well, while they have been holding this money, has there been any effort made to have any bond elections in the county?

A No, sir, because of this fact now: In their recommendation to our board for this consolidation program that is before you or the survey that Mr. Kennedy has presented, they recommend a $4-million bond issue, your Honor: That is the maximum extent of the entire county. The entire county is only taxable for school bonds at $5,500,000. We are still paying on the last $3-million; we owe a million and a half; so, therefore, $400,000 is the maximum we can tax ourselves.

Secondly, that same report recommends in current expense in capital outlay an increase of 53¢ in taxes when that thing is adopted county-wide. Now, I want you to understand that that includes not only Halifax County, but the Roanoke Rapids and the Weldon units, too, have to participate to get that kind of money. And even at that, sir, there will be a $600,000 deficit which will have to be accumulated in a sinking fund for two years before we would have enough money to build two consolidated high schools in Halifax County.

JUDGE BUTLER: All right. Thank you, sir.

[26] BY MR. JOSEY:

Q Now, after these efforts of you and other people in the Scotland Neck area in 1963, was there planning begun at that stage for a separate school administrative unit in the Scotland Neck area?

A Each year after 1957, with our budget request we presented to the county commissioners of Halifax County a brief, showing how much our tax was cut last year from the 60¢, and brought it up each year and requested

that those monies be restored in each budget. I know until 1963 that figure at that time had amounted to over $800,000.

Q That was with the county commissioners.

A That's right. And seeing at that time that we were not getting our fair and proportionate share of all the funds that we should be getting and that I couldn't see any possibility of other funds, we began looking to a city system in 1963 when Mr. Charles Fleming was principal down there, in order to determine if we couldn't improve and get better facilities for our school.

Q Now, is Mr. Charles Fleming here today as a witness and listed as a witness?

A Yes, sir, I believe he is.

Q And to your knowledge did he then, together with the local school committee and you and others, begin to plan for the adoption of a separate city unit, and in fact [27] introduced a bill in the legislature in 1965?

A That was the beginning of it, yes, sir. And it culminated after study with the district school committee, advising with the district school committee, the principal, myself and oher interested citizens, we decided—after securing all the data that we could from the various people around, we decided that we would get our pro rata share better if we were in a city system; and so we began to organize in 1963 to get a city system.

Q In the legislature of 1965 was there a bill introduced to create a separate unit in Scotland Neck.

A Yes, sir, there was a bill introduced in the 1965 legislature requesting a city system for Scotland Neck, naming the members to the board and their terms, and I believe we had on that thing two Negro citizens at that time.

Q And what happened to that bill?

A Well, that bill was introduced by our representative that lived in Scotland Neck at that time in the lower house, and it passed the lower house without any trouble whatsoever. When it got to the senate, apparently the senator from the upper end of the county didn't concur—

MR. KENNEDY: Objection to what the senator apparently didn't concur in.

A (Continuing) In any event, it did not get through the senate. I presume pressure was brought to bear by [28] outside interests.

MR. KENNEDY: Objection to his assumption.

JUDGE BUTLER: Yes, yes.

BY MR. JOSEY:

Q At any rate, it failed to pass the senate; is that correct?

A That's correct, sir. To my knowledge it never got on the floor of the senate I don't think.

Q Now, after the failure of that bill in 1965, I believe you have already testified in answer to a question of Judge Butler that you, together with other members of the county school board, went to Dr. Pierce's office?

A I didn't hear you, sir.

Q I said I believe you have already testified to the next sequence of events, and that is that you and other members of the school board, some of them, with Mr. Overman, the superintendent, went to Dr. Pierce's office in Raleigh to try to get this integrated high school built with the funds there, and that was turned down?

A That's correct, sir.

Q Then in 1968 did you and others begin planning again to introduce a bill, the bill which is now before this court, for a separate city unit?

A Well, at some time between 1963 and this time, we had had figures on how much money had been expended in [29] Scotland Neck and had compared it on a comparative basis, if we had gotten our proportionate share, our allocated share such as a city unit would have been, how much it would be: and it happened in that 3-year period that we would have gotten three times more money than we did get. The people were still dissatisfied. They wanted new facilities; they wanted their curriculum improved; they were becoming worried about the teachers, and they just wanted something done. And so they were on me every time I turned around. And finally we decided that the city system, incorporating

the people that wanted it, which was the City of Scotland Neck, the corporate limits of the City of Scotland Neck, was what we would pursue.

Q And based on that, rather than to go into detail—and I believe it is in your deposition—you and others then went to Tryon, North Carolina, and went over the thing with Mr. Dussenbury, the superintendent?

A. Yes, sir. We looked into the smallest school system in the state to be sure that we would have enough have, we went to the smallest school system and compared budgets to be sure that we would be financially—funds; after we arrived at the amount of funds we would compared budgets, curriculums too, to be sure that we would have enough money to operate.

[30] BY JUDGE LARKINS:

Q Mr. Harrison, how did you arrive at the conclusion that the establishment of a city system would enable you to get more funds? Did you have reference to these county bond funds?

A I have reference to any funds, sir. In the city school system your county-wide tax program is pro-rated on a per-student basis. For instance, suppose you have a million dollars coming in in county current expense, county capital outlay. All right, the million dollars—if Roanoke Rapids has 10,000 students or 5,000 students or 2,000 students, they get their proportionate part of that money on a pro rata student basis; the county gets its part on a pro rata student basis. Now, our county is 65 miles wide, and we have approximately 12,000 to 13,000 students. We get it on a per-student basis, but it is not spent, sir, on a per-pupil basis.

JUDGE LARKINS: All right. You may proceed.

BY MR. JOSEY:

Q State whether or not you and others then appeared before the legislative committees, and this bill was eventually passed with a vote of the people?

A That's correct, sir.

MR. JOSEY: Your witness.

[31]

CROSS-EXAMINATION

BY MR. KENNEDY:

Q Mr. Harrison, twice in your testimony this morning you referred to a trip to Raleigh to see Dr. J. L. Pierce in 1966 to build what you and your attorney called an integrated high school?

A That's correct.

Q Are you familiar with the written proposal that was submitted in November of 1965?

A Fairly familiar, yes, sir. I have seen it. It's been a good while since I have seen it.

MR. KENNEDY: May I approach the witness, your Honor?

JUDGE LARKINS: Yes, sir.

Q I will show you now what has been marked and introduced as Plaintiffs' Exhibit No. 14 which reads at the top, "North Carolina School Facilities Program, 1963, Form SP-2, Summary of Proposed Construction." Would you look at that, please, and tell us if that is the program proposal that you were talking about with Dr. Pierce?

A Yes, sir. On Page 2 of that form it shows that we requested in 1966, $750,000 for the Scotland Neck high school building and gymnasium.

Q Is it not true that approximately a mile or less from the Scotland Neck high school there is another high [32] school?

A Yes, sir.

Q And that is Brawley high school, is it not?

A That's correct.

Q Slightly larger than Scotland Neck high school, isn't it?

A Yes, sir.

Q But there have never been any white children that have attended that, have there?

A Not to my knowledge, sir.

Q It's all-Negro, isn't it?

A Yes, sir.

Q And it's just outside the city limits, isn't it?

A It's outside the city limits, yes, sir.

Q I'll ask you to look at this Plaintiffs' Exhibit 14 again and ask you if there are any suggestions in that report that the Brawley high school would be included in the building of the high school that you referred to at Scotland Neck?

A A lunchroom for Brawley would, yes, sir. They did not have a lunchroom of any type at that time over there.

Q Referring to the third page of this exhibit, is there a section on the form which asks, "Name of schools this project will replace"?

[33] A That's right, yes, sir.

Q Would you please read what is typed in after that, please?

A "Replace obsolete high school building and gymnasium."

Q And this is for Project No. what?

A Two.

Q And is Project No. 2 the $750,000 that you referred to for Scotland Neck high school?

A That's correct.

Q What was the method of assigning children to school in 1965-66?

A Freedom of choice, sir.

Q Had there been any pairing of grades between Brawley and Scotland Neck?

A No, sir, not that I know of.

Q Did this program for new construction at Scotland Neck provide for the possible pairing of grades between Brawley and Scotland Neck?

A Well, nobody had ever mentioned pairing of grades at that time, Mr. Kennedy. Everything prior to that time operated on a freedom of choice. I think that was the law of the land. However, when I appeared before Dr. Pierce, his question to me was this: "Mr. Harrison, are you sure the people are ready for an integrated school in your area?" [34] And I said, "I'm sure they will be. They need the facilities badly. They are willing to do their part and do what's right."

Q Let me show you Page No. 4 of the exhibit—No.

VIII, subparagraph A. Roman numeral VIII—doesn't that read "Long-range plans for this school"?

A Yes, sir.

Q And under subparagraph A is "Probable enrollment"?

A Yes.

Q What is the figure for enrollment in high school in September 1965?

A 305 students.

Q And the projected enrollment for September 1975 at the same school?

A 370.

Q A difference of some 65 students?

A That's right.

Q Do those figures include additional Negro children, or white children, or can you tell?

A Well, the school, if it were going to be built, I think you will find somewhere in there that it says it's to be built where it can be extended or enlarged as needed. Those facilities were not complete facilities to start with, because at that time you couldn't build a complete high school for $750,000, you know as well as I do, Mr. Kennedy. [35] But when you have approximately $1-million to be divided among 65 miles of schools, and 7 people sitting on the board, and it looks like the money is getting away, you can imagine what is taking place.

Q Would you read subparagraph B for the Court, under section VIII, "Long-range plans"?

A "No consolidation anticipated at this time. Probable increase in enrollment due to integration in 1966."

Q Did you know of any plans to integrate the Scotland Neck s[illegible] at that time with the Brawley school?

A No, sir.

Q Scotland Neck was to remain separate and apart from Brawley?

A As far as I know, both schools were to remain under a freedom of choice plan, yes, sir.

Q You are familiar, I'm sure, with the School Survey of 1968 for Halifax County by the State Department of Public Instruction, Plaintiffs' Exhibit No. 2?

A Yes, sir.

Q Are you familiar with the recommendations of the interim plan?

A Yes, sir.

Q Do those recommendations include a change in the grade structures both at Scotland Neck and at Brawley school?

[36] A Yes, sir.

Q And as a result of that change, to make Scotland Neck teach grades 10 through 12 for the general area of the southeastern part of the county?

A That's correct.

Q And to have Brawley teach grades 8 through 9 for the children in that area?

A That's correct.

Q This is a type of consolidation, isn't it?

A Yes, sir, that is a type of consolidation. That's in 1968, sir.

Q So the recommendations for 1968—

A Now, this figure you are giving me is 1966 over here.

Q So that the 1968 survey recommendations are a bit more far-reaching than the 1965?

A That's right, than freedom of choice, yes, sir, you're right.

Q Is there any freedom of choice that you know of in the interim plan recommendations of the Halifax County Survey?

A No, sir, I don't think there is any freedom of choice there.

Q But freedom of choice was the basis of assignment in 1965 when the proposals were made to Dr. Pierce?

[37] A That's right, sir.

Q Are you aware that the Attorney General of the State of North Carolina has made a ruling with respect to the question of whether the Scotland Neck school system could share in the proceeds of the 1963 bond issue?

A I have heard that, yes, sir.

Q Do you know that he has ruled that Scotland Neck could not share in the proceeds from the 1963 state school bond issue?

A I know that he has ruled that. I think that can be questioned, though, later.

Q Pardon me.

A I don't agree with it.

Q I'm sorry, your comment before that I didn't catch. You say you are going to challenge it?

A I didn't say we were going to challenge it. I say I think it could be challenged.

Q Do you know of any legal actions brought to challenge that?

A Oh, no. No.

JUDGE LARKINS: Anything further?

MR. KENNEDY: One moment, your Honor.

BY JUDGE LARKINS:

Q Mr. Harrison, have you examined the proposed plan of the Halifax County Board of Education that was submitted [38] on Monday of this week?

A No, sir, I haven't studied that, sir.

BY MR. KENNEDY:

Q Mr. Harrison, what educational advantages, if any, would there be with a high school in Scotland Neck of 305 children over a consolidated high school in Scotland Neck of double that figure?

MR. JOSEY: Objection, your Honor, on the 305. I don't know where he got that.

MR. KENNEDY: The 305 figure was the enrollment in September of 1965 at the Scotland Neck school.

A You are still talking about this same Exhibit 14, I take it.

JUDGE LARKINS: He is still talking about this same exhibit, I take it—14, Page 2, 3, and 4.

MR. KENNEDY: Yes, sir.

JUDGE LARKINS: Overruled.

MR. JOSEY: I will withdraw the objection.

A It wasn't limited to 305. It said there the provisions would probably have to be enlarged because of integration.

Q But the projected—

A Now, I felt this: if the new high school were [39] built, our good colored friends we have there in town

would come on to school with us. It didn't bother me—that angle of it—at all.

Q You read to the Court that the projected enrollment for September 1975 was 370?

A Yes, sir. Well, that's Dr. Pierce's or somebody's thinking up there. I don't think he knows any more about what the projected enrollment of that school is going to be than any of these people over here, in 1975.

Q Are you familiar with C. M. Moore, Jr.?

A Yes.

Q Who is he?

A He's chairman of the Halifax County Board.

Q Does this appear to be his signature at the bottom of that form?

A That's right.

Q And does this appear to be the signature of Mr. W. Henry Overman, the superintendent and secretary?

A Yes. I'm sure those people had reasons for signing that. They were projected from somewhere. But we have had those figures projected and turned around on us since I have been on the board, one time to my own knowledge.

Q Well, just answer my other question: Do you know of any educational advantages of children in a high school of either 305 or 370 over a high school of some three or [40] four grades and 750 children?

A Yes. More individual attention for one thing; closer relationship with the parents. And I think you can do things in a small school experimentally that you can't do in a large school experimentally. I think you can control your children better. You'll find that the majority of your schools that are having your big troubles now, anyway, are your larger schools. I think that's an asset to a small school. We have had some right big men come from our little bitty small school down there, and I'm sold on it, that's all; I just think we can do a lot for them.

Q Do you know of any professional educators of the North Carolina Department of Public Instruction who

share your views on the relative merits educationally of a 370-pupil high school over a 750-pupil high school?

A Oh, well, I wouldn't know what they think, no, sir. I don't think that figure was even ever discussed, though, in the meeting with Dr. Pierce; I don't think he said a word about it.

Q Are there any reasons why a high school of the projected size under the 1965 projection of 370 children would be better for the whole county school system than would be a consolidated high school of twice that size?

A Oh, yes, there could be reasons why they would [41] be better. I understand that they are building them smaller up north every day now, according to some of my reading.

MR. KENNEDY: No further questions.

CHARLES E. FLEMING, called as a witness by the Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q. Mr. Fleming, what is your full name?

A Charles Eaton Fleming.

Q Mr. Fleming, where do you live now?

A My home now is in Cleveland, North Carolina, near Salisbury.

Q And what do you do?

A I am principal of the West Rowan High School.

Q And how long have you been there at the West Rowan High School?

A This is my fifth year there.

Q Mr. Fleming, were you at one time principal of the Scotland Neck school?

A That's true. I was there from 1962 until 1965—three years.

Q And during the time that you were there, were you [42] involved in any studies that you and others made

in connection with the creation of a separate school unit for the Scotland Neck area?

A Yes, sir. There were a number of different requests, primarily from the district school committee, and I did attempt to get some factual information for them.

Q And when was the earliest that you recall that the discussions took place concerning this possibility and the studies?

A The earliest date that I can document was May 22, 1963. According to the minutes of the local district school committee, that was the meeting date with the school committee and the local members on a survey committee. And I do remember at the conclusion of this review of the survey that had been made, there was a discussion of the possibilities of a city system.

Q Subsequent to that time did you in fact gather data on the possibilities of creating a separate school unit for the Town of Scotland Neck area?

A I did. I was being asked questions on just what kind of a school program could we have as a city system opposed to what we already had, and so I attempted to get some information of a factual nature that could answer those questions.

Q What did you get? What did you then do?

[43] A One of the first things I did was to send out letters to a number of other high schools requesting their class schedules, and I think there were 8 or 10 schools that were contacted in various parts of the state. Two of the schools that were contacted were ones that were operating without a supplemental tax and were about the same size as the proposed school between Enfield and Scotland Neck. After getting those schedules back, I did make a tabulation of the offerings that they had and the offerings that we had, and came up with the conclusion that there would be very little to gain so far as course offerings were concerned in a consolidation with Enfield.

Q Was that a proposal at one time of the people of Enfield to have the two schools, Enfield and Scotland Neck, consolidated and put about 10 or 12 miles out in the country?

A That's true, yes, sir.

* * * *

[48] BY MR. JOSEY:

Q Now, Mr. Fleming, at that time did you obtain certain data from Mr. Overman, the superintendent of the Halifax County schools?

A I did obtain some data from Mr. Overman, that's correct.

Q Basically what was the nature of the data that you obtained from him?

A Well, I received a copy of the county budget and also received a reply to one or two requests asking about specific expenditures. For instance, the amount for heat and water and coal and that sort of thing, at Scotland Neck.

Q Now, did you also contact and make a visit to Dr. Hammack who was at that time Mr. Hammack and the superintendent of the Weldon City schools?

A I did go to see Dr. Hammack, and I believe that [49] was in the fall of 1963, and talked with him about the advantages and disadvantages in a small city unit which he was in at that time.

Q Is Dr. Hammack here today, and is he now superintendent of the Elizabeth City schools?

A Elizabeth City and Pasquotank County, I believe. He is present.

Q Now, based on the gathering of that data, did you make a formal report in writing with some conclusions to the local district school committee of Scotland Neck on or about January 1965?

A I did send out a mimeographed sheet to the members of the school committee and in that sheet gave them some figures on the amount of current expense money that the unit would have received by law if it had been a city unit. I also gave them some figures on the money that had actually been spent there by the county.

Q And how did the figures that you came up with compare, that is, the figures that were actually spent in the Scotland Neck area under the county system, and those that would have been spent had the unit been a separate unit?

A Under current expense money as a city unit, the unit would have received from the county $122,848; and

the current expense money that had actually been spent there [50] was $96,743, which showed that the school would have received $26,000 more as a city unit than had actually been spent while it was a county unit.

Q Now, that was for current expense?

A Current expense. In capital outlay funds the unit would have received $47,166; and the amount of capital outlay funds that had been spent—and this figure that I am fixing to give you was an average figure for the past three years at that time—was $17,462, which showed a difference of $29,000.

Q That's on an annual capital outlay?

A Annual capital outlay budget, yes, sir.

BY JUDGE BUTLER:

Q What was the difference you say? $147,166 that they would have received for capital outlay purposes and an average over a 3-year period of $17,462 that was actually spent, the difference was what?

A Your Honor, as a city unit, the unit would have received $47,166. But they had actually received $17,462, a difference of $29,703 approximately.

BY MR. JOSEY:

Q So that had it been a city unit, it would have received almost three times as much annually on capital outlay than it actually had received; isn't that correct?

A Than they actually had received for the three [51] previous years.

Q Now, how long did you say you were there in Scotland Neck?

A Sir, I was there three years, 1962 to 1965.

Q And compared to other school committees and school leadership, how would you compare the efforts of the people of Scotland Neck with other units that you have worked with in your career?

MR. KENNEDY: Objection. I'm not sure we know what the other units are.

BY MR. JOSEY:

Q What other units have you been connected with?

A. I was principal of what is now the Madison-Mayodan city schools, the Halifax County schools, the Cleveland County schools, and the Rowan County schools.

Q Go ahead.

A I can say in all earnestness that there was a general interest in Scotland Neck, interest on the part of the people in their schools that I have not seen in that degree of interest in any of the communities that I have served in; and there was a good deal of local participation, local interest, and I found that the people were willing to pay for anything that could be gotten to improve the schools.

MR. JOSEY: Your witness.

[52]

CROSS-EXAMINATION

BY MR. KENNEDY:

Q Mr. Fleming, you mentioned a bill that was introduced or that you worked to get some facts on that was introduced in 1965. Do you have a copy of that bill in the papers that you have with you?

A The Enabling Act of '65?

Q Yes, sir. The proposal, yes, sir.

A Yes, sir, I do.

Q Are you familiar with the townships that that bill would have included or the schools that that bill would have included?

A I am somewhat familiar.

Q What schools would have been included in that unit which was proposed in 1965 to the state legislature?

A I believe, of course, the Scotland Neck, the Brawley High School, Bakers School. I'm not sure what else.

Q May I show you a map that appears on Page 6 of the 1968 survey and ask you if you could help identify the schools that would have been included in the 1965 proposal?

A I can give you that from this Enabling Act, I think. This is the precincts; it does not list the schools specifically. This gives the boundaries of the proposed school district.

Q In order to save some time, could I suggest that [53] in addition to Scotland Neck and Brawley that Bakers School would have been included?

A That's true.

JUDGE LARKINS: Yes, he said Bakers.

BY JUDGE LARKINS:

Q How about Dawson?

A Dawson would have been included, yes, sir.

BY MR. KENNEDY:

Q How about Tillery Chapel?

A I believe so.

Q And Thomas Shields?

A I believe so.

Q And a school which is now no longer in existence, Hobgood?

A I'm not certain about Hobgood, whether that was included in this first Enabling Act or not.

Q But Inborden and Enfield were not included, is that correct?

A That's correct.

Q It's true, isn't it, that freedom of choice was the basis of pupil assignment at that time, in 1965?

A I believe that's correct.

Q Do you know the approximate number of children that would have been included?

A I believe it was about 2800 and some students that [54] would have been included.

BY JUDGE LARKINS:

Q Would it be fair to say that that proposed district in '65 would have taken almost half of the geographical territory of the county, every school east of Enfield? Because you have named Tillery Chapel, Dawson, Bakers, Scotland Neck, Brawley, and Thomas Shields.

A Your Honor, I believe it would be something less than half the county, I can't say positively.

MR. KENNEDY: Excuse me. For the Court's information, your Honor, if you are referring to Page 6 of our exhibit—

JUDGE LARKINS: Yes, that's what I had reference to.

MR. KENNEDY: —there's another school that was in existence at the time, Hobgood, that was in that general area which is no longer being operated by the school system.

JUDGE LARKINS: Where would Hobgood be with relation to Scotland Neck?

MR. JOSEY: Your Honor, it was right next to Thomas Shields. They were pretty close together.

BY MR. KENNEDY:

Q Mr. Fleming, when you were reading to the Court [55] some figures for current expenses and capital outlays, were you reading from a piece of paper?

A Yes, sir, I was.

Q May I look at that, please?

A Yes, sir.

Q With the Court's permission, would you read the last paragraph from that paper, please?

A Yes, sir.

Q Is that dated January 25, 1965?

A That's correct.

Q It's from you to the Scotland Neck school committee?

A That's correct, sir.

Q Would you read the last paragraph, please?

A "One will notice that the schools in the proposed unit would receive more money as a city unit than they are receiving as part of the county unit. The explanation for this is that the county unit has been spending its money on the basis of greatest need rather than on the basis of equal distribution. This is the policy of most boards and no one is at fault."

Q Thank you, sir. And were you the author of that statement?

A Yes, sir.

Q Going back for one moment to the admission of [56] 2800 pupils approximately in the then proposed unit, how many of those were black and how many white; do you recall?

A I have a breakdown here, I believe, that's accurate, by schools. Scotland Neck: 824 would have been white at that time. Hobgood: 95 that would have been white. Brawley: 1181. They would have been black. Bakers: 374 black. Thomas Shields: 369. And I believe 2843 students that would have been anticipated in that unit at that time.

Q Would you give us Tillery Chapel?

A I believe that that was not included, as I remember in this first Enabling Act.

KENNEDY: Thank you, sir. No further questions.

REDIRECT-EXAMINATION

BY MR. JOSEY:

Q Let me ask this. He asked you about the Hobgood school, whether it was included. It is your recollection that Hobgood was included in the first draft of the bill, and that they came and said that they didn't want to be in it because of the tax and asked to be dropped from the bill, and that the final bill that was introduced in the legislature did not include Hobgood; isn't that correct?

A I believe you are correct about that and was the reason I had some hesitancy. I remember it was included at [57] first, but I am inclined to think it was not included when the bill was introduced.

MR. JOSEY: All right. That's all.

DR. BENJAMIN P. HAMMACK, called as a witness by the defendant Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q Would you give the Court your name, please, sir?

A Benjamin Paul Hammack.

Q Is it Doctor Hammack?
A Yes, that's right.
Q Where do you live, sir?
A Elizabeth City, North Carolina.
Q What is your job at the present time?
A I am superintendent of the Elizabeth City-Pasquotank County schools.
Q And prior to that time, what was your position?
A I was superintendent of the Weldon City administrative unit.
Q And approximately how large was the Weldon City unit at the time you were there, the approximate total number of students?
[58] A Well, it averaged during that time about 2,400 students.
Q And how long were you superintendent of that unit?
A Nine years and one month.
Q And what position did you hold prior to that time?
A Prior to going to Weldon, I was at Duke University as a graduate assistant for one year, and prior to that I had served as a principal in the Raleigh city schools for 6 years, as a principal for two years in the Kannapolis city schools, and as principal for one year in the Cabarrus County schools. Prior to that I was a high school teacher in Gaston County for five years.
Q What degrees do you have, sir?
A I have a B.A. Degree from Furman University and a Master of Education and Doctor of Education degrees from Duke University.
Q Now, Dr. Hammack, back sometime in 1963 were you contacted by Mr. Fleming who was principal of the Scotland Neck City school at that time?
A Yes, I was.
Q And did you have a visit with him?
A He came to my office, visited me in my office.
Q What was the stated purpose of that meeting?
[59] A He was seeking information regarding city administrative units for the purpose of—I understood he was getting this information for Mr. Harrison and the members of his committee.
Q And what information at that time did you give him?

A I remember giving him a copy of our budget, that is, the administrative unit budget. I also remember giving him a copy of the budget I prepared for the individual schools, alloting money to the individual schools on a per capita basis. I may have given him other documents, I don't recall at this time. And then we did discuss in general the advantages and disadvantages of a small city administrative unit.

Q What in your opinion are the advantages of a small city administrative unit, if there are any?

A Well, I think it depends upon the particular situation. At that time I felt as though in Weldon we had a better school system, able to give our children a better education than if they had been a part of the county school system.

Q And why was that?

A Well, we had more funds per student than the county.

Q And where did they come from?

[60] A We had a local supplemental tax.

Q During that 9 years, in general were you familiar with the general conditions and circumstances of the Halifax County system?

A Well, Mr. Overman and I worked very closely together, but I really didn't know too much about their school system as a whole. But as we discussed the situation, knowing what we could do in Weldon and knowing what they were not doing in the county, I was of the opinion that we were giving our children a better education.

BY JUDGE LARKINS:

Q Is that the only reason you decided—from additional revenue from the Weldon taxation?

A Well, the additional revenue made it possible for us. For example, with these funds we were able to supplement the teachers' salaries extra, and at that time in fields such as mathematics and science, by having funds for extra teachers' supplement, we were able to fill these positions with well-qualified people. If we had not had these funds, we would not have been able to do it. Also,

we were later able to vote a local salary supplement for all teachers. It was only $100 a year, and that's mighty little money, but it was increased later on to $200, and we believed this was an important morale factor with our teachers, and we did think that this was a move in the right [61] direction. Also in 1962 we stopped charging the students any fees to attend the school. We felt like this was a very important move on our part. Also, we were able to establish a very good Industrial Arts Department which we felt was a real accomplishment.

Q There are three things, then: salary increase of $100 to $200 a year.

A Well, there was no supplement at first. We started with $100 and then later on, recently, increased it to $200. Also, in the area of school supplies we were able to, I feel like, adequately supply our teachers and students with supplies; for instance, several teachers commented to me that they had much rather be with us than with the county because of the school supplies.

BY MR. JOSEY:

Q Were you in a position to more closely supervise the students as a superintendent than in a unit, say like Mr. Overman with 11,000 students—and, supervise the teachers?

A It's my opinion that the duties of a superintendent are such that neither Mr. Overman nor I are able to supervise the teachers, I'm afraid. I mean the duties are such. I know his duties were such that he couldn't, and in my case I had very little time, actually, to get into the classroom with the teachers.

[62] Q Would you say you knew your teachers individually?

A I'm sure that I knew my teachers. I would believe that I knew my teachers more intimately, personally, than he did. I should say this: The first 5 years I was in Weldon as superintendent, I also had to serve as principal of the Weldon High School, and there at that school I did know those teachers real well.

Q Now, at the conferences that you had with Mr. Fleming or in the conferences that you had with any of

the Scotland Neck people at that time, was there any mention of race that motivated this school bill or this study?

A No. Most of my information regarding the situation came from Mr. Fleming's wife, Mrs. Dorothy Fleming, who was serving at that time as our Attendance Counselor.

Q For the city system of Weldon?

A Well, she actually served, I believe, all three systems in a cooperative endeavor. On several occasions she discussed with me the interest in Scotland Neck for a separate administrative unit, and I recall that she said that the people were very concerned about this, that they said they slipped up and let the '63 legislature adjourn without action that they should have had at the '63 legislature, and they were anxious to get everything in order for the '65 legislature.

* * * *

[65] BY MR. JOSEY:

Q Will you give the Court your name, please, sir?

A Hugh D. Randall.

Q And where do you live, sir?

A Hendersonville, North Carolina.

Q What is your position?

A Superintendent of the Hendersonville City schools.

Q How long have you been superintendent of the Hendersonville City schools?

A Fifteen years.

Q And prior to that where were you?

A I was principal of the Orlando schools in Orlando for three years, Lewiston-Woodville School for two years, and I taught for a year in Franklin County.

Q And where did you attend college?

A I did a Bachelor of Science at Wake Forest and then a Master of Arts at Wake Forest College.

Q How many students are there in the Hendersonville City unit?

A. The present enrollment is about 1,900 to 2,000.

Q And approximately how many of those are Negro?

A Ten to twelve percent of them, I guess.

Q Now, what county is Hendersonville in?

A Henderson County.

Q What percentage would you say, approximately, are [66] Negro in the surrounding county?

A I would have to guess. It's much lower. Probably three or four percent.

MR. KENNEDY: Objection to his guessing.

JUDGE LARKINS: Well, that's his best estimate.

BY MR. JOSEY:

Q There is a lesser percentage of Negro to white in the surrounding county than there is in your city unit, isn't that correct?

A That is correct.

Q Now, what advantages, if any, are there in your opinion in a small city unit—Strike that.

Do you have a supplementary tax?

A Yes, sir. We levy 50¢ on $100 valuation.

Q And state whether or not in your opinion there are some advantages to a small unit as compared to a unit of approximately 7,000 or a unit of 10,000 which Mr. Kennedy mentioned.

A Yes, sir, I think we enjoy some advantages as a small unit. I would first say one of the advantages is our participation with the parents and citizens that actually control the schools. We have much better participation than larger units, percentagewise. Of course, parents can get involved and do and very much easier than [67] they can in a larger situation.

Q Is that sometimes a headache for a superintendent?

A It can be! But after all, the schools belong to the people at home, and we encourage involvement. And it has been my experience that large systems have trouble involving many, many people; we can do it much easier. Percentagewise, students can participate in more activities. You have a larger percentage playing football, and you have a larger percentage of the student body in student activities, you have a larger percentage of the student body in social activities, you have more class officers percentagewise in students, cheerleaders, and everything else that students like to participate in. A

larger number of your students percentagewise are involved. And I think the biggest advantage to us is the instructional program. That's what we operate the schools for anyway. We like to think that the more individual attention we give a child, the more advantages the child will have. As a consequence we employ 18 additional teachers over and above what the state allots. It's purely for the purpose of reducing the teacher's load.

We pay a supplement to teachers from our local tax sources to recruit only teachers with A Certificates or better. We are able to maintain the Southern Association [68] of Accreditation for all schools.

Q All schools in your system?

A All schools in our system, primary through high school. I am sure I couldn't do this with too many children in too large a system. I can't see any way possible. I talk this over quite often with people who are having problems in larger systems who are working with the same thing. Sheer volume and numbers just overwhelm you when you undertake a few of these things that I consider advantages.

Q Since you have been there these fifteen years, has the Hendersonville city system become fully integrated?

A We must be in our fifth or sixth year, yes, sir.

Q And what advantages, if any, do you feel exist in a small unit in dealing with the problems of integration, if you do?

A As I mentioned earlier, more student participation in social activities as well as school activities; more readily to accept—and I don't know the correct term—more readily to accept integration or mixing socially at dances and school affairs where you have smaller numbers of pupils.

Q What do you attribute that to?

A I attribute it mostly to community involvement where parents know parents regardless of race, where [69] children know one another, and above all teachers know pupils by their names. They do not have to discipline pupils by saying, "Hey, you," or talking to them as a group but can call them by their names. I think we have better control over social affairs by that sort of

relationship. So I think the size there has some definite advantage.

MR. JOSEY: All right, sir. Your witness.

MR. KENNEDY: We have no question of this witness.

VERNON L. DUSSENBURY, called as a witness by the defendant Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q Give the Court your name, please, sir.

A Vernon L. Dussenbury.

Q Mr. Dussenbury, where—

MR. KENNEDY: Excuse me, if the Court will allow me, the last witness Mr. Randall also testified at some great length at the August hearing.

JUDGE LARKINS: That's what we are looking [70] at now.

MR. KENNEDY: Mr. Dussenbury also testified at the August hearing, and I wonder if this is not somewhat cumulative?

JUDGE BUTLER: Well, at the August hearing when Mr. Hugh Randall was called to the stand, it was announced that his testimony would be 95% cumulative.

Now, Mr. Dussenbury is with the Tryon City Schools, has 853 students, the smallest unit in the state, ranks near the top of the list in quality. He gets supplemental funds, local supplemental funds, for the students, and so forth.

We have a pretty good record of what they testified to.

MR. JOSEY: I merely tender him then, your Honor, if Mr. Kennedy has any questions.

MR. KENNEDY: No questions, sir.

JUDGE BUTLER: You may stand aside, Mr. Dussenbury.

JUDGE LARKINS: Call your next witness.

MR. JOSEY: Mr. Shields.

All of the City School Board of Scotland Neck come around, please, and be sworn.

[71] JUDGE BUTLER: Now call the names of these witnesses that are now being sworn, please.

MR. JOSEY: Mr. Frank Shields, Chairman of the School Board; Mrs. William Holloman, member of the school board; Mr. Walter Anderson, member of the school board; Mr. Al Burke, member of the school board; and Mr. Aubrey Powell, member of the school board.

JUDGE LARKINS: All right, administer the oath.

(Whereupon, the witnesses named above were duly sworn by the Clerk.)

MR. JOSEY: Mr. Shields, will you take the stand, please.

You other members, please, just have a seat there in the jury box.

FRANK P. SHIELDS, called as a witness by the defendant Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q I believe you are Mr. Frank P. Shields, and you are Chairman of the Scotland Neck City Board of Education; is that correct?

A Yes, sir.

[72] Q Now, Mr. Shields, I believe your deposition has been taken by the Government or the plaintiff in this action back in, oh, July of 1969; is that correct?

A Yes, sir.

MR. JOSEY: If your Honor please, I would like to announce at this time that we do not propose to go into anything here, but mainly two things that have occurred since that time.

JUDGE LARKINS: All right. When was that deposition taken, Mr. Kennedy?

MR. KENNEDY: July 24, 1969, your Honor.

JUDGE LARKINS: Very well. You may proceed.

BY MR. JOSEY:

Q Now, Mr. Shields, I show you here what purports to be a copy of the defendant Scotland Neck City Board of Education's FIRST FURTHER ANSWER that was filed sometime in September, I believe. Would you look at that, please, and be sure that is a copy of it.

A Yes.

Q Now, Mr. Shields, although that was not verified, it was filed by your attorneys. I'll ask you if in fact you and other members of the school board, prior to the time that this First Further Answer was filed, met and discussed this First Further Answer, and you and the school [73] board agreed that these were the facts, and that the representations made there were in fact true, and that you would abide by them; is that correct?

A Yes.

Q And that you stated there that, "Within the geographic boundaries of the Town of Scotland Neck there now reside approximately 751 students of school age; 56.86 percent of which are white and 43.14 percent of which are Negro." Aren't those the figures that this school board is cognizant of?

A Yes.

Q And you also stated there that, "The resident school population is sufficient to constitute an efficient separate school administrative unit, and the special tax funds will enable the Defendant to offer to its resident students an education system which is greatly superior to that heretofore enjoyed by them and superior to that which would be available to them if there were no such tax." And that, "Defendant made arrangements to operate such an improved school system in Scotland Neck for the school year 1969-1970." And you do now swear that that is the intention of the board, and that the board is cognizant of that fact?

A Yes.

Q And I'll ask you if this statement is true and [74] was discussed with the board and is still yours and the board's representation to the Court:

"It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the Town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court."

I ask you if that wasn't in fact discussed with this board, and that the board agreed that that was what they are willing to represent to the Court and do so at this time?

A Yes.

Q And didn't you also ask that, "The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant," or the Scotland Neck City Board of Education, "to the Court and for the hearing of any objection that may be filed thereto"?

A Yes.

Q Didn't you also as a city board of education— [75] will your Honor give me just one minute?

JUDGE LARKINS: Yes, sir.

BY JUDGE LARKINS:

Q May I inquire, Mr. Shields, what is the capacity of the Scotland Neck facilities to which you say there is being projected an enrollment of 751 students?

A I couldn't say exactly, Judge Larkins, but there are now in attendance there about—somewhere between 830 and 850 students. And I would say it would accommodate up to—well, in the permanent classrooms probably 900.

JUDGE LARKINS: You may proceed.

BY MR. JOSEY:

Q I show you here the defendant Scotland Neck's Exhibit 4 and ask you if that is in fact a copy of a newspaper advertisement which you and the members of this school board ran for two separate weeks in the *Scotland Neck Commonwealth* in the early part of October of this year?

A Yes.

MR. KENNEDY: Your Honor, we have no objection to the authenticity. We admit the authenticity of all of these exhibits.

JUDGE BUTLER: Has that been marked and identified?

[76] MR. JOSEY: Yes, sir, it has already been introduced. This is just another—

JUDGE BUTLER: What is the exhibit number?

MR. JOSEY: No. 4.

JUDGE BUTLER: That's Defendant's Exhibit 4?

MR. JOSEY: Yes, sir.

Q What I would like to ask you is if in that advertisement did you notify the entire population of the Town of Scotland Neck that the district of this city administrative unit, the Scotland Neck School, "embraces all children of school age living in our Scotland Neck Community. It is contemplated by the Statute, it is required by law, it is the intent of this Board that every child living in this community shall be treated just the same, regardless of race, creed or color. There will be no segregation under our operation.

"The basic school population of our community would be approximately 57% white and 43% Negro. We do not know of any complaint which has ever been made anywhere of such a ratio.

"Transfers out of or into the Scotland Neck Schools would be made in accordance with a plan or plans of transfer to be prepared by our board and filed with the Court, in order that any objections to such plans could [77] be made to the Court and heard by it.

"Every operation of our Board would be in the plainest kind of spotlight, in the spotlight of public opinion and the spotlight of Court observation.

"It is the firm intent of our Board, and the firm intent of the people of Scotland Neck, to make our new School District work, to make ours an outstanding school, not a 'segregated school,' not an 'integrated school,' but just a school 'for all of our children without regard to race, creed or color.'

"It is our firm conviction that the successful operation of 'just a school' would be good for our community of Scotland Neck, good for our County of Halifax, good for our State and good for our Nation. The welfare of Scotland Neck, and possibly its survival, depends upon the success of just such a school."

Isn't that what you published in the paper, you and members of the board?

A Yes.

Q And is that your present intention, and do you represent that to the Court at this time under oath?

A Yes, that is my intention and as far as I understand it is the intention of every member of the board.

Q And all members are here with you at this time?

A All members are present.

[78] Q And what is your present appraisal of the sentiment in the community of Scotland Neck in accepting and operating the school as you and the board have set forth?

A I feel that the community wants it. I feel that they are willing to accept the plan as outlined. I think they are willing to support the school, and their purpose is that they want a better education for their children there in Scotland Neck.

MR. JOSEY: All right, sir. Your witness.

MR. KENNEDY: No questions, your Honor.

BY JUDGE LARKINS:

Q Did you receive any response to this?

A Yes, sir. It was an appeal for donation of funds to finance our fight here in court, and we have received a good response I think from it.

JUDGE LARKINS: Very well. Call your next witness.

MR. JOSEY: I would like at this time, your Honor to—

If these members of the board agree with what Mr. Shields has said, hold up your hand.

I would like for the record to show that each member of the board held up his hand.

I would like to tender those other four witnesses, the members of the Scotland Neck [79] School Board to this Court and to the Department of Justice.

MR. KENNEDY: No questions.

JUDGE BUTLER: Take a recess until 2:30.

AFTERNOON SESSION
Wednesday, Dec. 17, 1969

MR. JOSEY: That is the evidence for the defendant Scotland Neck City Board of Education, if your Honor please.

MR. KENNEDY: Your Honor, if I may be permitted to offer one witness in brief rebuttal for the Government.

JUDGE BUTLER: Very well, sir.

DR. ROBERT PITTILLO, called as a witness by the Government in rebuttal, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. KENNEDY:

Q Will you please state your name and occupation?

A Robert Albert Pittillo. I am Associate Professor of Education at Duke University.

Q Would you tell us something about your professional background, please?

[80] A I did all of my schooling in North Carolina. I began teaching in the little town of Battleboro in the eastern part of the state, and I taught for the Dependent Schools for seven years.

BY JUDGE BUTLER:

Q At what schools?

A Dependent Schools, Okinawa, Austria, Germany. I taught in Durham County. I was assistant superintendent for five and a half years in Raleigh, North Carolina; my job was Director of Instruction. And I was superintendent of schools, Lynchburg, Virginia, for a year and a half, and then I came to Duke University.

Q And do you hold your doctorate?

A Yes, sir.

Q Have you done most of your major work in school administration?

A Yes. My doctorate was in School Administration, and that is what I teach.

Q Are you familiar with the report of the Governor's Study Commission for the public school system in North Carolina?

A Yes, sir.

Q Were you a consultant to the commission?

A Yes.

Q Have you studied the sections in the Governor's [81] Study Commission Report? And for identification I am referring to Plaintiffs' Exhibit No. 11. Have you studied the sections in there on School Organization for Public Education?

A Yes.

Q Do you agree that the statements in there—Do you generally agree with the statements that are set out there with respect to recommended school organization for public education?

A Yes.

MR. JOSEY: I'm sorry. What section is that?

MR. KENNEDY: Section 3, I believe, Mr. Josey. Part 3—Organization for Public Education. It begins on Page 140.

Q Are you familiar with those sections in the report —and if you would like to refer to it, I can pass it to you —on the recommended minimum number of pupils recommended for a school system?

A Yes. Are you talking about the systems now?

Q Yes. School administrative units, yes, sir. I believe that section begins on Page 163 under Local School Organization.

A Yes. On Page 163 here it refers to a North Carolina State Education Report of 1948, and I am in agree-
[82] ment with that. This is a part of this.

Q I see. And on Page 164 carrying over to Page 166, do you agree with the nine factors of the Education Commission of the states which are listed there, 164 to 166?

A Yes.

Q Do you have an opinion as to the minimum size—minimum number of pupils in a high school that would enable a school system to offer a comprehensive education?

A Yes, I have.

Q What is that figure, sir?

A Well, I think—in my judgment it should be from 1,000 to 1,500 as nearly as possible.

Q Are we talking about a 4-grade high school?

A Yes, 9 through 12. Now, as near that as possible. I think with 750, a minimum of 750, it is economically feasible to have a reasonably comprehensive high school. The feasibility of it has to do with economics.

Q Has some of your professional background been concerned with the study of the feasibility and the cost effect of high schools of the minimum size of 750?

A Yes.

Q Can you very briefly tell the Court and us what you mean by a comprehensive high school?

A I think of a comprehensive high school as a school
[83] that offers all children a realistic opportunity for success in a worthwhile program. I'm talking about mentally retarded children, children who are classified generally as slow learners, as well as the academically able child. I'm speaking, too, of the child who will go to the university as well as the child who will go to the factory or the farm, as the case may be. I think of the comprehensive high school as offering the child a competitive education, not just competitive in his community, because we don't know where he is going to live, but so he can compete on a broad basis and work in whatever community he may wish or may choose to work in.

Q Do you have an opinion as to the recommended minimum number of courses that such a comprehensive high school ought to provide?

A Well, the authorities in this area tend to use some measures that I agree with in part, McClurkin being one from Peabody.

Q Is that Dr. W. D. McClurkin who is cited in the Governor's Study Commission Report?

A Yes. He says that it should be three times the number of courses required for graduation. I think that is too few. I would think in terms of numbers that you should offer 60 or more courses in a comprehensive high school. It ranges—in North Carolina I believe we have [84] one school that offers over 120 courses, according to the Governor's Study Commission Report.

Q Now, with respect to the minimum number of children in a school unit as set out in the Governor's Study Commission Report, do you know of any school of professional educational thought in this state that disagrees with that recommendation?

A Would you please state that question again?

Q Well, with respect to the minimum number of pupils that a school unit should have—and I think that Dr. McClurkin refers to 10,000 which the commission approves of—do you know of any school of educational thought or any educational experts in this state who disagree with that recommended minimum standard?

A Yes.

Q Who are they?

A Well, some of us—I have some friends who are professional acquaintances who are superintendents in small districts, and they don't agree with the 10,000. Generally speaking, the authorities who are writing in the field and teaching consider 10,000 as a minimum number for an efficient school district. If you have 10,000 to 25,000 or 30,000, you can operate an efficient school district in my judgment.

Q Are you also familiar with a survey done under [85] the auspices of the North Carolina Department of Public Instruction for the Halifax County unit in 1968?

A Yes.

Q Were you a member of that survey team?

A Yes, I was.

Q Were the recommendations for the interim plan contained in that survey made with a view to furthering or advancing the educational opportunities for all the children in the Halifax County unit?

A Yes. That was our unanimous feeling.

Q And did the recommendations in the interim plan foresee or drive at establishing two comprehensive high schools in Halifax County?

A Yes.

Q Is it not your opinion that this would increase the educational opportunities for the children?

A Unquestionably. Yes, sir.

Q Is there any recommendation at all in the plan that there be a smaller, separate school system created in Halifax County?

A No, sir.

Q Have you ever consulted with other school systems?

A Yes, I have.

Q About educational problems?

A Yes, sir.

[86] Q Have you ever recommended to them that there be separate small school systems created?

A No, I have not.

Q Dr. Pittillo, just to clarify one point, when you were referring to the 750 pupils as a minimum number for a feasible school, you were referring to a 4-grade high school, weren't you?

A Yes.

MR. KENNEDY: I have no further questions, your Honor.

JUDGE BUTLER: Excuse me one minute at this point.

BY JUDGE BUTLER:

Q It is my understanding that when you referred to 750 students for a 4-year high school, you used the words "economically feasible." Do you put any stress on the word "economically" as contrasted with other factors?

A Yes, sir, your Honor, because you can have a comprehensive high school of 50 students if you are willing to have one pupil in one class. But what I am talking about is having a broad range of opportunities for students, in languages and in all areas, vocational programs, your science programs, and operate at an optimum level so that you can maximize the efficiency of your teachers and the equipment you have in your building. That's what I [87] meant by this.

JUDGE BUTLER: All right, you may cross-examine.

CROSS-EXAMINATION

BY MR. JOSEY:

Q Now, Dr. Pittillo, you say you were a member of the group that made the survey for Halifax County in 1968?

A Yes, sir.

Q I believe that was probably presented to the board for the first time sometime in the middle of December 1968; is that correct?

A I don't know. I didn't participate in the presentation to the board. But as I recall, it was sometime in there.

Q And I believe the ultimate plan was to put two high schools in the county system, one up basically in the northwest section and one in the southeast section; is that correct?

A Yes, sir.

Q And the school in the southeast section, do you recall whether or not a location was determined for that?

A As I recall now, we were trying to locate it—we didn't look at the land or anything of this sort, but we just put it on the map in terms of where it would logically fit in terms of the students. We used population [88] distribution maps and this sort of thing, but we tried to center it reasonably within the center of the student population and geographically too.

Q I believe that was located generally in the Dawson community, do you recall, between Enfield and Scotland Neck somewhere in that area?

A That sounds reasonable, but I don't recall that.

Q And even if the Scotland Neck City unit were to be upheld and was to operate as a separate unit, I'll ask you if it isn't true that there would still be enough high school students—Enfield, Brawley, Inborden, and other high school students in the same area that you proposed to have a comprehensive high school in spite of Scotland Neck not being in that unit? Isn't that correct?

A I'm not sure. I would guess so, because as I recall—and I have not looked at the report except very briefly, one small section of it. As I recall, we were talking about approximately 1200 students there. I may be wrong. Now you are talking about removing 300, is that right—removing less than 300.

Q Yes, probably less than 300.

A You would have—I would judge in Scotland Neck you would have a little over 200 in grades 9 through 12.

Q And so that you would still have a number which you consider sufficient to have a comprehensive high school?

[89] A Yes, sir.

Q Now, isn't it true that the plan that you and—Strike that. Was Dr. Pierce on this committee with you?

A Yes, sir.

Q Of course, he had actually taught as a teacher and as a principal there in Scotland Neck some years ago; isn't that correct? Did you know that?

A I think I recall that now.

Q As a football coach and that sort of thing. Did you know that?

A You are refreshing my memory. I'm not sure.

Q But he was extremely familiar with the conditions in Halifax County; you knew that?

A Yes.

Q And the plan which you and Dr. Pierce and this group in the 1968 survey came up with required approximately $4.3 million in funds in order to accomplish the program of the two consolidated high schools; isn't that correct?

A Again you are pinning me down to numbers that I—if I could see the report, I could verify them. (Report handed to witness) What page is that on?

Q I'm not sure.

MR. KENNEDY: Your Honor, I think the report will speak for itself as to what was recommended there.

[90] JUDGE BUTLER: Well, it would be helpful if he could point it out.

MR. KENNEDY: If I may suggest that the witness turn to Page 13 at the top, there is a discusion there of financial organization.

A We saw an immediate need for two new secondary schools at the estimated cost of $4.2 million. These would be, in our view, truly comprehensive high schools offering a broad range of courses, academic, vocational, across the board, and programs for mentally retarded as well.

Q Now, what did you or your committee recommend as to how this money was going to be raised?

A Well, a part of it was in hand, as I recall, and the remainder would have to be raised by a bond issue.

Q The part of it that was in hand was about $800,000; isn't that correct?

A I think that's right.

Q So it was necessary to raise about $3.4 million?

A That sounds reasonable.

Q And of course that would require a special bond issue?

A Yes.

Q And your committee determined at that time with the bond indebtedness of the County of Halifax, that that [91] was more than the law would permit; isn't that correct?

A Well, if it's in here, it's correct. But I don't recall that. I thought that we stayed within the debt service limit.

Q And do you know or did you know that there are two other units, administrative units, in the County of Halifax?

A Yes, we took that into account.

Q And of course the entire county, including Roanoke Rapids and Weldon, would have to vote on this bond issue, wouldn't they?

A Yes, sir.

Q So that politically it would have had to have been a vote of the majority of the people of the entire county,

not just the ones in the residency of the Halifax school administrative unit?

A That's right. But the bond issue would not have to carry all three districts.

Q But don't you know that more than half of the voting population in Halifax County reside in Roanoke Rapids and Weldon?

A I didn't know that.

Q And of course you nor any member of your committee had any other suggestions as to how to raise this money: I mean there was no other money available as far as you knew [92] other than a bond issue in the county?

A I think that's right.

Q And you say that a high school that is properly, substantially financed can have a comprehensive program, but it takes more money per student, the overhead is greater, is basically what you are saying, isn't it?

A It's far greater in a very small school. As a matter of fact, the per-pupil cost may be double in some instances.

Q Well, do you know that under the Scotland Neck City administrative unit that the per capita expenditure of local funds will be more than doubled, do you know that, over what they are under the Halifax County system?

A The per-pupil expenditure?

Q Yes.

A The total per-pupil expenditure?

Q Of local funds.

A Oh, that's not what I was talking about when I said the per-pupil expenditure might be double in a very small high school. It might well double in a very small high school if you attempted to offer a comprehensive program. That's the total per-pupil expenditure.

BY JUDGE BUTLER:

Q When you say "a very small high school," could you give us some approximate figures as to the number of [93] pupils in the school in which the per capita expenditure would be doubled as contrasted with another specific size school?

A Your Honor, I couldn't be accurate on that, I'm sorry. But I would guess that when you drop below 300 in a 4-year high school that your per pupil expenditure, in order to offer such courses as physics, chemistry, and a broad range of advanced academic courses as well as vocational, that you would have classes of five or six students. You have eleven or twelve sometimes in a school of 800 or 900. And if, say, 16% of your student body is taking physics and you have 300 children—or if you have a class of a hundred, you would only have a physics class of 16, and that's twice as expensive on a teacher basis as a class of 32, though you wouldn't normally run a physics class of 32.

BY MR. JOSEY:

Q Now, Dr. Pittillo, isn't it true that a number of the smallest units in this state, such as Tryon, such as Hendersonville, rank substantially above, academically, a number of the units that are large such as 10,000 or 11,000 such as Halifax County, in many academic standards?

A I have not seen the comparisons that you are making, but I would guess that's reasonable.

Q And isn't it basically because of, maybe, the [94] additional funds that are poured into these smaller units by local supplements that they can from a practical standpoint raise in a small area?

A That could be part of it, yes. The clientele makes the difference too.

Q That is, the competency of the teachers, the competency of the superintendents, would certainly have something to do with that, wouldn't it?

A Yes. The total expert leadership that you could give to a district is extremely important in my judgment in the opportunities that the students have, and I don't think all of that expert leadership can come from one person.

Q But if you have more funds to hire people, you can normally speaking, generally speaking, get a better qualified and more competent individual, can't you?

A Yes, sir.

Q And of course teachers' supplements, superintendent supplements, payable from local funds is one of the inducements to enable these smaller units to get more competent persons?

A That is important. The kind of school that the teacher can teach in is extremely important.

Q Isn't it true that there are problems that are created or exist to a greater extent in a large unit, in [95] a large high school, that may not exist in a smaller more closely supervised high school today, particularly in the last five or six years?

A I'm not sure about that. I think where the problems—some of the greatest things that are being done in this state that I have witnessed this year in all these problems, and particularly integration problems, are being handled quite well in very large high schools or relatively large high schools of 1200 or 1500 students. But by the same token, you have had some difficulties in large schools.

MR. JOSEY: I believe that is all.

MR. KENNEDY: We have no further questions, your Honor.

* * * *

[104] (Whereupon, evidence was heard in Civil Action No. 1482, Raleigh Division, Turner, et al versus Warren County Board of Education, et al, and The Warrenton City Board of Education; the Littleton-Lake Gaston School District, et al.)

On Thursday, December 18, 1969, after the morning recess, Col. Joyner made the following argument on behalf of the Scotland Neck City Board of Education:

[105] JUDGE BUTLER: Colonel Joyner, you are now recognized for the purpose of the argument.

COL. JOYNER: Thank you sir. If it please the Court, let me say first that the defendant, Scotland Neck City Board of Education, is content with the record which we have made. We have no complaint there. We are ap-

preciative of the time which has been given us to argue this case, and I'll say that I would not have offered to speak at all and would not have requested as much time as forty minutes if I had not thought that this was a matter of tremendous importance and if I had not thought that what I would say would be of interest to the Court and of assistance to the Court in reaching a decision which may moderate some of the acrimony about schools and may be a step forward in reaching the result desired by the Supreme Court as expressed in the *Green* cases.

I am not going to burden the Court with much about the matters of evidence about the situation in Scotland Neck and the matters before the legislature. They are in the record. We will file a brief which will cover most of those points. I think it will cover most of the points that I am going to discuss; therefore, I doubt if it is necessary for the members of the Court to make notes unless there are some things that they wish specifically to record.

[106] This is an exceedingly unusual case. I have read many cases and I have never found one exactly like it. I don't know of any case on the books that so nearly fits into the pattern which seems to be required by the series of *Green* cases.

I am going to end up by stating my conclusion that the most favorable situs for curing the inertia or fears which defeated freedom of choice is the small community school with a nearly even racial balance and with widespread, enthusiastic community support will prove that Scotland Neck is a proving-ground for a realistic theory of tremendous importance.

The main thrust of my argument is an analysis of the series of *Green* cases, May 17 or 27, 1968. Those are the critical decisions governing the issue in this case, and I think that we must bring our case within those decisions.

The main thing that will be argued today will be not the question of school policy. We insist that that is a matter for legislative decision. The legislature has spoken on that: and whether it's wise or unwise to set up small school districts or to try to get very large, consolidated districts is a matter of State policy, and State policy must

be elastic and it must respond to conditions as they occur. And it could very well be that as [107] conditions exist today, racial conditions, rebellion conditions, conditions as to what should be put into a school and how much the school should be devoted to social activities and how much to work, they are matters that change and they are matters that may well justify action toward the establishment of small schools in local communities where the people—as Mr. Powell, the Negro member of the Scotland Neck Board says, "The people can have more influence on the schools. They can be felt." Mr. Powell moved back from New York, works in Rocky Mount, and lives in Scotland Neck, because he feels that he can work better and live better in a small community. That's one of the features of this case.

Now let me go very hurriedly over some of my notes, beginning before 1969. And I am going right straight to the main issue of this case. Before 1969 we thought that freedom of choice offered a fine settlement of the racial school issue. That's the only settlement that is a permanent, possible settlement, because it gives the freedom for which this Nation stands; and freedom of choice is the desired end, and we thought that that had disposed of the matter. But we found that that didn't dispose of the matter. And I'm not quarreling with what the Supreme Court did, but the Supreme Court in the *Green* cases went very deep, and I have never seen any [108] anlysis that goes quite as deep as I think this Court will have to go.

The Supreme Court said it is not sufficient to destroy and knock out the State law that requires segregation. That gives the opportunity. We thought that when you opened the doors of the school to anybody that would come in regardless of race, that that answered the *Brown* cases. That was the destruction of the legal barrier. As I understand the Supreme Court in the *Green* case, it said that the legal barrier which has been imposed in the past has left a structure which will have to be changed, and that structure that was caused because of that legal barrier is the Negro school and the white school; and the proof, as I understand the *Green* case, the proof that

freedom of choice has not worked is that after two or three years in the Virginia and Arkansas and Tennessee cases—there was the *Green* case and two other cases decided the same day—that where a lot of students had a choice, that the white students in the prior white schools did not shift to the Negro schools, and very, very few of the Negroes shifted to the white schools.

Now, in the *Green* case they said that what had been a Negro school and after freedom of choice was still 85% Negro, was still a Negro school. They said in [109] the *Raney* case the same thing. They said in the *Monroe* case that the same existed where there were only 80%. As a matter of fact, the words they used in the *Monroe* case was that with 80%, just something more than 80% remaining Negroes, it was still—and I quote—"completely a Negro school."

Now, what I am going to conclude with is that if this Statute is stricken down, you are not going to be able to have one single unitary school, because the percentage is going to be 80% or more Negroes in the county school district, and the only way you can have a unitary school in the county school district is to establish this as a unitary school. And this will be a model. But I am getting a little ahead of myself.

Let me go back to the *Green* case. The *Green* case says —and this is the final gist of what it says. It says the burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now. I want to underscore that. I think that is the key phrase.

There are in my opinion two turning points in this case. The first turning point occurred when the Scotland Neck City Board of Education filed its First Amended Answer after the August hearings. In the August hearings this Court had pointed to two things to which it [110] did not give its approval. Number 1: that approximately 300 white students had come in from outside the Scotland Neck districts and about 90 Negro students had gone out, and the Court was worried about what it called "a white refuge." It also was concerned about the tuition, the amount of the tuition. We took counsel on that

and filed the First Further Answer. We then ran a public advertisement signed by all of the members of the school board. And we have presented witnesses here who were accepted, and on these points were not asked a single question by the Government or by the Court. When they said that we propose to run a unitary school confined only to the residents of Scotland Neck, that will mean a unitary school with 57% white and 43% Negro; and we will confine transfers to those which may be according to a plan approved by the Court. So the handling of transfers, the handling of tuition, are matters within the Court's breast. And what we are talking about is an entirely different thing than we were talking about in August.

Incidentally, let me say that Mr. Kennedy was gracious enough yesterday afternoon to give me a 32-page Proposed Findings of Fact and Conclusions of Law and Proposed Order. I read it last night. It is a skillful document produced by able men. But in that total document there is not one reference to the First Further [111] Answer or to the advertisement that was run. There is not one reference to the placing of the transfers and tuition in the hands of the Court. As a matter of fact, that document would have this Court say—and except for time, I would point the paragraphs out, but I haven't got time. That document would have this Court say—and he's speaking as of today—would have this Court say that the Statute would siphon off approximately one-third of the white students in the Halifax County School District. That would mean that it would siphon off approximately 750 or 800 students. Now, that's speaking in terms of August. That's not speaking in terms of December. And he would have this Court say just that in his Findings, and he completely ignored that one turning point.

The other turning point is the *Green* case. Now, bear in mind that the Court had said that those schools did not meet the criteria of unitary schools, because they were still completely Negro schools. Now, they say that a plan that is proposed must promise realistically to work, and promise realistically to work now. Now, that is said by the Supreme Court of the United States. In

the first place I am not going to permit myself to believe that that Court said something that it did not believe, and in the next place I know that that Court is exceedingly skilled in the use of words. Now, what does [112] "realistically" mean? As defined in an Oxford Dictionary, an old one, realism is, quote, "Dealing with things as they are." Webster: "Realism is preoccupation with fact or reality and rejection of the impractical and the visionary." So the Supreme Court has said to deal with things as they are and to discard the impractical and the visionary. And I propose, if I can do so, to argue this case realistically and not theoretically.

But let's look at the *Green* case. The *Green* case said that when freedom of choice did not work. It didn't analyze completely, but it did have a statement in there that very plainly indicated the reasons they thought it had not worked. And that is what I would pray that this Court consider and think about very deeply. Why didn't freedom of choice work? It didn't work in the three cases in the *Green* case; it didn't work in Scotland Neck, because we came up after three years of freedom of choice and we had less than 10% Negroes in the Scotland Neck School. And the *Green* case very plainly says and refers —and we will refer to that in the brief and give the page citation—that only those Negro parents or only those Negro students had transferred who were courageous enough, and I underscore the word "courageous"—courageous enough to go against the established precedent, the precedent established under long compelled segregation.

[113] In the opinion in the *Green* case there is a footnote which gives about half a page copying a report from the Department of Health, Education, and Welfare in which they assign alleged reasons why the children did not exercise freedom of choice: because freedom of choice failed—and that's obvious; I didn't think it was necessary to say that—because the children or their parents, the parents of the Negro children, did not see fit to take advantage of the opportunity, and the white parents and children did not take advantage of the opportunity to shift to a Negro school. So it was a ques-

tion of choice. And in this listing as a footnote in the *Green* case, the first reason is fear—fear of retaliation.

Now, what we are now dealing with is not a question of law, it's not a question of fact; it's a question of attitude. Freedom of choice failed because of attitude, and it failed because of the attitude which was certainly impelled by fear to some extent, required courage, and a large degree of inertia was present. And, therefore, the only thing that you can say toward which the *Green* case is directed, is a change of attitude. What is needed is a convincing frame of mind, a frame of mind in the Negroes convinced that they can attend a truly mixed school, a unitary school, and they can attend it in peace and contentment and with educational profit. That must be [114] the attitude toward which the *Green* case is directed. And the white students must have the same attitude that they can attend unitary schools, mixed schools, and they can attend with safety and contentment and with educational profit.

Now, what the *Green* case says to me is that that attitude is what caused freedom of choice to fail; and in order to permit freedom of choice to succeed, that attitude must be changed. And if and when that attitude—I'll strike out the "if," because we can't contemplate the horror of a situation where that attitude isn't changed. When that attitude is changed, then freedom of choice can be restored and this Country can again be a free Country, and parents and children will be free to exercise their own option.

We are caught now in an inconsistent situation. In a country where freedom is our motto and where everybody is crying "Freedom," we are denying children freedom of choice. Now, I'm not complaining about it; I'm not saying that the *Green* case isn't sound when it said that the cause of the failure is attitude, that the children were lacking courage to take advantage of their opportunity. But we must change that attitude. Now, how are you going to change an attitude? You can't change an attitude with a sledge hammer or with an injunction. You've [115] got to change something in the mind. You can change an attitude only by starting to work with

individuals. And when you work with individuals, that means people, persons, living in a community.

Now, what is possible in this case? How can you get a change of attitude in Halifax County which will lead the Negroes to be content to go to mixed schools and lead the white children content to go to mixed schools? Well, I say the only way you can change the attitude is by trying it. And how are you going to try it? Well, the best way to try it and the best place to try it is in a school where the races are nearly equally mixed. If they are not mixed, then you haven't had a real demonstration of the ability of the Negro children and the white children to get along together. Because if you've got in the neighborhood of 75% to 80% white, you've got a white school, you haven't got a unitary school. If you've got 75% or 80% Negro, you've got a Negro school. So I say that the best place to start to change that attitude and to take the desired step forward is in a small community.

I refer again to some language in the *Green* case. The *Green* case says in substance that where freedom of choice has not worked—and bear in mind in the *Green* case they had one big white school here and another big Negro school there—where freedom of choice has not worked, [116] a look must be had to other expedients such as zoning. Well, that's precisely what we are doing here—zoning. We are taking a county where it would be impossible to establish anything except predominantly Negro schools. That is the County Board situation—78% Negro. And there has been a zoning which has been confined to the city limits of Scotland Neck, and it applies only to the children living and raised in that community; and the result of that zoning is the remarkable situation that hasn't existed in any case that I have seen of almost a perfect ratio for demonstration of the lack of the need for fear. Now, you not only have that perfect situation there, but you've got a very unusual community. I know of no case that has come up with the proof of what Scotland Neck has as a community, and that is a community that is determined to make this work. The community is behind this effort. It's up

to Scotland Neck to prove to Halifax County, to prove to the State, that in an eastern county in Eastern North Carolina you can have a successful, harmonious mixed school with the ratio nearly even. And they are determined to make it work, they are determined to maintain the contact between the parents and the teachers and the administration and the students; they can preserve order. I'm not saying it will work, I don't know whether it will or not. But I am saying this: I am saying that under the [117] conditions that are proven, looking at them realistically, you've got a better chance of demonstrating the feasibility of a mixed school in Eastern North Carolina than you would have in any other possible arrangement in the Halifax County School Board of Education territory.

Now, I said I felt the duty to myself and to my client and to this Court to argue this case realistically. Now, what are the realistics? What is realism about what's going to happen if this Statute is stricken? The record is replete with evidence, deplorable, to be deplored, but almost sure to happen that there will be a mass movement of white students from Scotland Neck to private schools; such a mass movement that your percentage in the county of white students will be lowered. And you are going to come out—if this is stricken down, and you try to have mixed schools in that Halifax area, you are going to come out almost certainly with a ratio greater than 80% which the Supreme Court has said are all-Negro schools, and you will not have any satisfactory demonstration in that area and in that county that white students and Negro students can go together peacefully and with contentment and with pride.

Now, I deplore that situation; the people of Scotland Neck deplore that situation. The evidence is replete that one of the objectives in the passage of this [118] Statute. —this comes from Mr. Harrison, it comes from the Chairman of the Board. One of the objectives was to forestall the movement which has already started toward private schools. Now, I don't think it needs any proof. I think that the members of this Court are thoroughly familiar with the extent of that movement. It's going

on everywhere. I'm not saying that there isn't a place in our system for private schools; I think there is; but the place primarily is for unusual children, either extraordinarily brilliant or extraordinarily slow. There is a place for private schools. But if the private schools suddenly grow and grow as it now appears that they are going to grow, then the public schools in North Carolina are going to be practically destroyed. That's the dilemma that this Court faces.

There has already been—it's in our newspaper articles, and the Court knows it: There has already been a very decided tendency on the part of people throughout this State to vote against school taxes. If you look at it realistically, they take the attitude that they are fed up with public schools run by the United States Government or the United States Courts. You recently saw a vital bond issue in Wilson County utterly defeated; you have seen a bond issue in Wake County and the City of Raleigh that was of vital importance, and neither board of [119] education has the courage to submit it to a public vote now.

The private school situation is a dreadful alternative, but it's one. Now, the Government in its argument, in it's brief, says that according to law you cannot retard integration because of the threat of private schools, and passes it off that way as though the problem wasn't here. But the Supreme Court says "realistically," and says that the plan must promise realistically to work now. You can't have a plan unless you do consider the private schools. And what I am saying is that with this Scotland Neck plan, you've got the potential of the only demonstration which the *Green* case says must be had in order to remove those fears that have prevented or have caused freedom of choice to fail; and this is the only chance they've got.

There were a lot of other things that I wanted to cover, but I am about through. You have been very patient, and I am beginning to tire. I have already commented on the turn of this case when the First Further Answer was filed, in which we said, Here is a unitary unit and that expansion may be only as the Court may

approve. I have already commented on the fact that the Government has blinked that fact and in its 32-page brief hasn't even referred to either the First Further Answer, to the [120] advertisement that was run, or to that chairman that was on that stand, Mr. Shields, or to those four school board members over there. I do call attention to the fact with respect to Mr. Shield's testimony and with the other members, including the Negro member Mr. Powell, who voted by raised hands that they concurred in Mr. Shield's testimony, the Government asked them not one single question. Does that mean that the Government isn't interested in the local community, is not interested in the local conditions, is not interested in the community support, is not interested in the objectives of a school committee? And I might say —and I say this not with apology, but with reservations —that I think the Court was convinced of what they said. The Court asked them not one question, except one question as to the capacity of the school, as I recall it.

I also comment on the fact that, although you have a tremendous document about the intervention before you, we have proceeded through the injunction hearing, we have proceeded through this hearing, and the Government hasn't called a single Negro resident of Scotland Neck or a single Negro resident of Halifax County to the stand in the Scotland Neck case. Now, we had one. We put Mr. Powell on the stand. We swore him in and had him testify by raised hand that he agreed with Mr. Shields. [121] The Government asked Mr. Powell not one single question.

Now, I am about through, but I do want to say this: If you are realistic—and you must be realistic; the Supreme Court has said you must, and reason and logic and justice says that you must—you've got to look at this Scotland Neck community. I think this evidence shows, and the depositions show, that you have an unusual community in Scotland Neck. I think the evidence shows that their views, I think, are the right views. They recognize that the future of this Country, and certainly the future of Scotland Neck, depends upon cooperation and understanding and good relations between

the Negroes and the whites. They know that the whites in Scotland Neck need the Negroes. The Negroes in Scotland Neck know that they need the whites. Both races need the high degree of self respect, mutual respect and cooperation; and we offer here and now to prove it in Scotland Neck. As I say, I don't know what the result will be, but I say that you've got a better chance of proving the undoing—and I'm glad to say the courts have stopped talking about integration. They have started talking now about the "undoing of the relics of State-imposed segregation." And you've got the best chance here of undoing those relics than you have had in any place that I have known of, and that you can have in Eastern North Carolina. I have a very great deal of deep feeling about [122] that. I married a girl who was from a Scotland Neck family, and for 34 years I spent some of the happiest days of my life there. They are my people. I have danced at their weddings and have helped them bury their dead. And I implore you to give them a chance.

This Court, I say, has a tremondous opportunity and a dreadful responsibility. You have the opportunity of taking a step forward toward good relations, a step toward removing the remnants of State-imposed segregation, removing the fear on the part of students to shift or to go to mixed schools. You've also got the dreadful danger that if this Statute is stricken down, the people of Scotland Neck and the people of North Carolina are going to be so disappointed and so frustrated that the racial relations will not be improved; they will be greatly worsened. And because of the knowledge of this Court, of North Carolina and its people, that total responsibility rests on just two district judges. It doesn't rest on the Circuit Court of Appeals, it doesn't rest on the Supreme Court of the United States; because you know the people, you know the conditions. And I say to you that I am convinced that a decision upholding this Statute would not only be a great step in the improvement of racial relations, which is absolutely necessary in our whole Country; not only a good step in that direction, but [123] it would relieve this Court of a great burden and

would make its path easier in the administration of the law.

Thank you very much for your kind attention.

JUDGE BUTLER: Col. Joyner, this Court, as you are aware, feels the burden of its responsibility in this case as well as in other similar cases, very keenly. Judge Larkins and I have some dozen or more of these cases involving, of course, different situations, different counties, different ratios. When we come to geographical zoning within counties, we have zones that reflect different ratios. And it is of great concern to the judges who bear the responsibility for the decisions.

Now, we have the responsibility to try, as best we can, to apply the constitutional principles as we understand them.

Now, we have been discussing largely the result of this Act with respect to a certain area surrounding Scotland Neck and the resident students within that area. Now, what effect would upholding the constitutionality of this Act have upon other students within the confines of Halifax County for whom this Court must, of course, give the same consideration? What are the results to the other students and the educational system in the remaining portion of the county?

[124] COL. JOYNER: Well, I have very strong opinion on that. I have the opinion that the thing that all of the students in the Halifax County school distirct need most is the demonstration to them that Negro students and white students can get along peaceably and profitably in a school, and that you cannot have that demonstration except by this special school district.

I think it would have this effect: I think that if it succeeds—and it's got the best chance of succeeding of any other mixed school—if it succeeds, the other children in Scotland Neck in the other schools, where there are 80% Negroes and 20% white, will be spurred on by the observation of the success in the Scotland Neck School. I think the white students will be more content to go to the predominantly Negro schools. I think the Negro students will be more tolerant of the white students because of what they see in Scotland Neck. I think the

people in the county will be more willing to continue to live in the county. And I think this, your Honor: I think that other people, other white people if you please, will be willing to move into the county. And if you don't do something to stop the flight of white students to private schools, you are going to have a situation just like you have in Washington, D. C. And I think it would improve the [125] atmosphere throughout the whole county. It would show them that the United States Government is interested in dealing realistically with a problem in approving a demonstration that the two races can work together. And I think it would have a very beneficial effect. I think, on the other hand—and now I am just repeating myself—if you don't do that, it is going to have a very bad effect. I don't think there is any question but that a mass movement of white students from a predominantly Negro school in a Negro county is going to stop the growth of that county. It's going to almost destroy their public schools, and people are not going to move into the county. I think the fate of the county hangs on this decision.

JUDGE LARKINS: May I supplement what Judge Butler said in his inquiry? You may not be aware of it, but at the conclusion of this case, I have set a hearing for the Halifax County Board of Education upon its plan which has been submitted which follows the recommendations of the State School Survey Plan which was filed December 1, 1968. Among the papers which were submitted to me is correspondence between Mr. Lunsford Crew, Senator Crew, representing the county, and the State School Survey team, in which he asks them to reexamine the recommended interim plan of December 1, 1968, and bring it up to date; and he was successful in getting a very prompt reply, which [126] is in the record. He has attached to the proposed plan a map of Halifax County which will show the projected school population in the various schools in the county, many of which result percentagewise 98% black and 3% white. This plan was approved by the Government at the pretrial conference which you attended in my office when Mr. Kennedy announced that this plan was then acceptable, and this is the plan which the board has now,

I would say reluctantly, submitted to the Court, but it is at least the plan that has met the approval of the Department of Justice.

Now, following what Judge Butler says, if you look at this map that Mr. Crew has attached to the plan which shows the results of it, to uphold the Act creating the Scotland Neck School District and confining it to the geographic confines of the town, would result in a greater disproportion than if it were not adopted. Because you will find that immediately on the outside where some family may live, as I can conceive, a family living right outside the confines of the town whose eaves might drip over into the town would be deprived of admission into the Scotland Neck School and may have to go many miles distance to a school unless, as you propose, this Court take each application for admission and pass upon them, which would be very burdensome.

[127] COL. JOYNER: No. Our suggestion is a plan to be submitted to the Court, and the Court then could provide general regulations which would prevent such distortion as the Court desired to prevent. You could limit the transfers. And about the question of the Scotland Neck plans, if the Court should approve the constitutionality of this Statute, I doubt if Scotland Neck could get into operation before September. Now, that I don't know, but that would be my idea. And the striking down of this Statute is going to increase the ratio of Negroes, unquestionably, because there are going to be a great many white students that will leave Scotland Neck and possibly other parts of the county, but I'm speaking of Scotland Neck. And I think involved here is the preservation of the public schools and the preservation of the city and the preservation of the county. I think you are going down the drain if your schools go down the drain.

JUDGE BUTLER: Have you given any consideration to the schools in Halifax County outside of the Scotland Neck city administrative unit?

COL. JOYNER: I thought I had talked about them a great deal. I have given a lot of consideration to it. I think that they will be no worse off proportionately,

and they will be much better off if they see a mixed school [128] set up in Scotland Neck and working.

JUDGE BUTLER: In other words, the example which you say would be set by this harmonious relationship within this administrative unit would benefit the county from a psychological standpoint?

COL. JOYNER: Yes, sir, it certainly would. It would help to remove the one thing which has caused freedom of choice to fail, and that is fear.

JUDGE LARKINS: Well, wouldn't that be predicated upon the some 250-odd Negro students who now reside within the confines of the Town of Scotland Neck staying in?

COL. JOYNER: It contemplates that very definitely.

JUDGE LARKINS: Have you through Mr. Powell had any assurance that these parents and children would be satisfied with that?

COL. JOYNER: Your Honor, I am reasonably sure they would not be satisfied, because they want to continue to go to an all-Negro school. Now, I say that is just exactly what the unanimous court in the *Green* case said; that if freedom of choice doesn't work—and it hasn't worked, because the Negroes haven't transferred to Scotland Neck—if freedom of choice doesn't work, you may have to go to some plan such as zoning. Now, when you go [129] to zoning, as I understand what they meant by going to zoning, you draw an area and you say, Now, all the children in that area must go to the schools in that area, which incidentally I think is the best thing that can happen to students—to go to school where they live. But I undoubtedly think that to start with there are a lot of Negro parents that won't be satisfied. I know there are a lot of white parents that won't be satisfied. But I am saying that the Scotland Neck community is prepared to help work down those satisfactions and have a truly unitary school that will promise realistically to work now. And I say that's the only way you are going to get it.

JUDGE LARKINS: Well, let me refer you to the proposed plan which I will hear, I hope sometime today or at least tomorrow; and this is the State School Sur-

vey Plan which was submitted a year ago but which has now been projected. It may be subject to some change. But here's what I direct your attention to. Let me only inject this: that if the plan is acceptable—and the Department of Justice announced in October that it was—the Scotland Neck Schools would be the tenth through the twelfth grades with 482 Negroes, 198 whites, with a capacity of 675, and transfers total 680. So you have the exact capacity to take care of them. Brawley, one through nine, you would [130] have—now, of course, these are projected figures—304 Negroes, 284 whites, for a capacity of 944 with transfers and assignments of 907. So you would have full capacity. In the ninth grade there would be the greatest disproportionment with 252 Negroes and 67 whites.

Now, this proposed plan would encompass not only all of Scotland Neck, but Brawley and the Bakers School which would be some distance east outside of Scotland Neck. But in this proposed plan Bakers, one through eight, would have 357 Negroes and only 9 whites. And on the other side of the outside of Scotland Neck you would have Dawson just to the west, grades one through eight, with 388 Negroes and 60 white. So regardless of what happens to Scotland Neck, immediately to the east and immediately to the west you are going to have almost a 90-10 ratio in Dawson and worse than that at Bakers with 357 to 9. And as you move on out in the county, about the only one that I can find where your theory as you advance it would be Aurelian Springs, 250 to 377.

So as Judge Butler has indicated, what's going to happen to the children in the remainder of the county if this Scotland Neck Bill is found to be constitutional and stands, affecting only the children who happen to be fortunate enough to reside—their parents—in the Town of Scotland Neck?.

[131] COL. JOYNER: I think I am repeating myself now, your Honor, but I think that what will happen, if you look at it realistically, is only good. I think that the declaring of this Statute constitutional is not going to impair the percentage of white students attending the

schools in the district outside of Scotland Neck. I think it is not going to impair that. Because I think if you declare it unconstitutional, many of those students are not going. I think that it can't hurt them, and I think it may help them very much to have a neighboring place where they can see members of both races working together harmoniously. And that's what we are really striving for.

JUDGE LARKINS: I didn't want to belabor you with this. But percentagewise you would have about the same relation here with the Brawley and Scotland Neck schools under this plan as you would have in the Town of Scotland Neck.

COL. JOYNER: No, sir. In the first place, where you've got a much higher relationship than Scotland Neck's, you've got two other very great drawbacks. You've got several very great drawbacks. In the first place, you've got the drawback of artificially busing students out of the Scotland Neck area into another area for the purpose of creating a ratio. And you are artificially [132] busing students into Scotland Neck. In the second place, you are not going to have those ratios. I think if you are realistic about it, you can look at the counties that have private schools, and you can look at the record in this case and you know that many of those white students that are carried from Scotland Neck to the neighboring Negro schools are going to private schools. In the third place—and I think probably this is the most important—you are not going to have the determination in the Scotland Neck area or in the other areas of the parents and of all of the citizens to make the plan work.

(Whereupon, a recess was taken from 1:00 P. M. until 2:00 P. M.)

[Caption Omitted]

MEMORANDUM OPINION AND ORDER

LARKINS, District Judge:

This cause came before the Court upon the filing of the plaintiff's complaint on June 16, 1969 attacking the constitutionality of Chapter 31 of the North Carolina Session Laws of 1969, a local act which carved out of the Halifax County, North Carolina school system a separate administrative unit for the operation of the schools in Scotland Neck, North Carolina. In its complaint, the plaintiff also challenge the constitutionality of defendant Halifax County Board of Education's pupil assignment plan on the grounds that the plan failed to establish a unitary nonracial school system as required by the mandate of the United States Supreme Court.

Now before this Court for its consideration is a Motion for Leave to Intervene filed by Pattie Black Cotton, Edward M. Francis and others, two public school teachers in Halifax County and a number of minor school children of the Scotland Neck City School System and the Littleton-Lake Gaston School System on behalf of themselves and all other black or Negro public school teachers, parents and students similarly situated. The intervenors, for reasons known only to themselves, waited until the morning of December 17, 1969, the day on which this Court had scheduled a trial on the merits of the constitutional questions presented in this action, to file their motion. They name as parties the original defendants and the following proposed additional defendants: Mr. W. Henry Overman, Superintendent of the Halifax County Schools; the Board of Commissioners of Halifax County, a public body corporate; the Scotland Neck City Board of Education, a public body corporate, and Franklin B. Bailey, Superintendent of the Scotland Neck City Schools; the Littleton-Lake Gaston School District, a public body corporate, and Russell N. Manning, Superintendent of the Littleton-Lake Gaston School District; and the North Carolina State Board of Education, a public body cor-

porate, and Dr. Craig Phillips, North Carolina State Superintendent of Public Instruction.

In their motion, the intervenors show the Court that the contentions in their complaint have questions of law and fact in common with the contentions of the plaintiff in this action and that the relief sought could be granted as part of the relief given the original plaintiff. They also show that the United States as plaintiff has not set forth certain available grounds for complaint that occurred subsequent to the filing of the complaint. The motion also states that the prospective intervenors opposed the passage of the local acts creating separate school districts in Halifax and Warren Counties and that they now desire to show the racial motivations behind the passage of those acts.

In their proposed 32-page complaint the intervenors seek injunctive relief against the operation of the separate administrative units and against the assignment of students and faculty on the basis of color along the same lines as prayed for in the original complaint filed by the United States. They also seek to have the black teachers treated in accord with a national Code of Ethics adopted by the National Education Association and seek injunctive relief against the termination of contracts and certain operational and curriculum changes. They wish to have declared unconstitutional the local acts passed by the North Carolina legislature and the alleged policy of punishing black teachers who take disciplinary action against white students.

The intervenors also show the Court that Pattie Black Cotton, a Negro teacher, has been subjected to charges which "have created doubt and uncertainty as to (her) professional, legal and ethical rights." Specifically, it is alleged that she was subjected to criminal sanctions for assaulting a white student with a ruler and was required to appear at a hearing which would determine whether she would be entitled to continue her employment. It is also alleged that a white teacher testified at this hearing in violation of the professional Code of Ethics.

The complaint also states that the plaintiff Edward M. Francis, a Negro, was a Trade and Industrial teacher in

the Town of Scotland Neck from 1967 until June 3, 1969, at which time his employment was terminated because of the creation of the Scotland Neck administrative unit and the consequent elimination of certain trade courses from the curriculum of the Scotland Neck schools. The Halifax County school system is still operating the school but has failed to re-employ the prospective plaintiff.

The complaint additionally defines the positions of the proposed defendants and states the alleged grounds upon which they should be made parties to the action. There is also a lengthy discussion on the background and circumstances surrounding the passage of the local acts which created the separate administrative units.

At the hearing on the constitutional issues on December 18, 1969, this Court requested that Mr. James R. Walker, Jr., counsel for the intervenors submit a concise statement in which he set forth the reasons for which he sought intervention and why the interests of the prospective intervenors were not being adequately represented by the United States. On December 19, 1969, counsel filed a two-page document entitled "Further Contentions For Intervention" which essentially summarized some of the contentions in the complaint and stated that the intervenors had additional information that had not been brought to the attention of the Court, that the intervention would not be a burden since the factual allegations are matters of record, that the questions raised by Pattie B. Cotton may be deferred as a separate matter and that the applicants for intervention are persons affected by the Court's decision and are persons who must help implement any decision the Court might make.

On December 19, 1969, during a hearing on the proposed plan of desegregation submitted by the Halifax County Board of Education this Court read into the record the "Further Contentions" submitted by counsel for the prospective intervenors and directed that responses to the Motion for Leave to Intervene and the "Further Contentions" be filed by Tuesday, December 22, 1969. The Court received responses as follows: On December 22nd, the Court received the response of the North Carolina State Board of Education and Dr. A. Craig Phillips; on

December 23rd, the Court received the response of the Halifax County Board of Education, the Intervenors Reply to Objections to Intervention and a telephone call from counsel for the Board of Commissioners of Halifax County requesting an extension until January 1, 1970, in which to respond to the motion; on December 24th, the Court received the response of the Scotland Neck City Board of Education; on December 26th, the Court received a Memorandum in Opposition from counsel for the United States. After consideration of the pleadings, the Court set oral argument on the objections to the proposed intervention to be heard on Friday, January 2, 1970, at 12:00 noon in Chambers at Trenton, North Carolina, and directed the Clerk to send notices to that effect to all parties and counsel of record.

The essence of the objections on the part of those parties opposing the intervention is that the motion is not timely and that the interests of those seeking intervention are being adequately represented by the United States as plaintiff. The opponents cite Rule 24 of the Federal Rules of Civil Procedure relating to intervention. They also suggest that there are no questions of law or fact in common with those of this action with respect to those aspects of the proposed complaint in intervention which deal with issues not already presented in the action. The opponents further argue that to permit intervention would cause undue delay and prejudice to the existing parties in that the intervenors had the information necessary for the preparation of their motion several months prior to the time they actually filed it and yet waited until the day on which the Court was commencing the trial on the merits to present their claims. The memorandum submitted by the United States suggests that the contentions relating to certain individual faculty members or former faculty members are the only ones on which the proposed plaintiffs are not now receiving adequate representation and that these contentions present no immediate problems. Therefore, suggests the Government, these contentions could be taken under advisement without necessitating a delay in this Court's rendering a decision on the desegregation and constitutional aspects of the case.

In rebuttal, the proponents of the intervention contend that delay is not a valid reason for denying intervention since the case has been pending only six months and the other matters could be decided immediately without denying intervention. They suggest that they are necessary parties and the real parties in interest and point out that they are seeking relief and damages not prayed for in the original complaint.

At the hearing on January 2nd, this Court was informed that notices had been sent to all parties and counsel of record except Mr. William McLean, attorney for the Littleton-Lake Gaston School District. The Court directed that he be served with the motion and the complaint in intervention and that he be given five days from January 2nd in which to file a response. The Court talked with Mr. McLean by telephone on January 7th and was informed that a response had been deposited in the mails on January 6th. The response was received on January 8th at which time the matter became ready for this Court's ruling.

After a full consideration of the pleadings and oral argument of counsel, this Court concludes that the proposed complaint in intervention does raise some questions with respect to the status of some faculty members that were not raised in the original complaint and that should properly be considered as relevant to this action. The Court also feels that to allow the intervention would not unduly prejudice the rights of the other parties to this action. Therefore, the Motion for Leave to Intervene shall be allowed.

ORDER

NOW THEREFORE, in accordance with the foregoing, it is:

ORDERED that the Motion for Leave to Intervene be, and the same hereby is, allowed;

FURTHED ORDERED that the original defendants and the additional defendants named in the complaint in intervention are hereby ordered to answer or otherwise plead within 20 days in accordance with Rule 12 of the Federal Rules of Civil Procedure;

FURTHER ORDERED that the Clerk shall serve a copy of this MEMORANDUM OPINION AND ORDER upon all counsel of record.

Let this ORDER be entered forthwith.

/s/ [Illegible]
[Illegible]
United States District Judge

TRENTON, NORTH CAROLINA
January 9th, 1970

[Caption Omitted]

COMPLAINT IN INTERVENTION

FIRST COUNT

1.

That the Intervening Plaintiffs admit each and all of the allegations of the Original Complaint herein and adopt the same as if herein made and in addition thereto, the Plaintiffs allege as follows:

JURISDICTION

2. The jurisdiction of the Court is invoked pursuant to Title 28 U.S.C., Section 1342, this being a suit in equity authorized by law, Title 42 U.S.C. Sections 1981 and 1983, to be commenced by any citizen of the United States or other persons within the jurisdiction thereof to redress the deprivation under color of statute, ordinance, regulation, custom or usage of a State of rights, privileges and immunities secured by the Constitution and laws of the United States. The rights, privileges and immunities sought herein to be redressed are those secured by the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Jurisdiction of the Court is also invoked under Title 28, United States Code, Sections 2201 and 2202, this being a suit for a Declaratory Judgment declaring the rights privileges and immunities and the unconstitutionality of State statutes and actions as will hereinafter appear.

3. This is a proceeding for a temporary restraining order and a permanent injunction as follows;

1. enjoining the Halifax County Board of Education, the Littleton-Lake Gaston School District, the Scotland Neck City Board of Education and their members and their Superintendents from issuing or enforcing any order or directive individually or in concert, requiring the plaintiff-students or any other students similarly situated, to attend any school or submit to any school administrative unit other than

the Halifax County Board of Education and schools operated by the Halifax County Board of Education and,

2. enjoining the Halifax County Board of Education and its members and Superintendent and all other persons acting in concert or participation with them or at their direction from continuing the policy, practice, custom and usage of discriminating against the plaintiff-students and teachers and members of their class because of race or color, in the assignment of students and teachers and in the hiring, assigning, dismissing or refusing to hire teachers and other school personnel in the Halifax County School Administrative Unit on the basis of race or color.

3. Enjoining the Halifax County Board of Education from condoning, encouraging, accomodating or acting in concert with white parents and teachers in denying to Negro or black teachers in integrated schools, the ethical treatment and professional respect and regard for professional rights and responsibilities as accorded white teachers and as required to be accorded to all teachers by the standards of the Code of Ethics of the Education Profession as adopted by the National Education Association, and

4. Enjoining the Halifax County Board of Education from terminating teaching contracts or refusing to rehire teachers based upon the creation of the Scotland Neck and the Littleton-Lake Gaston School Districts hereinafter complained of.

5. Enjoining the Halifax County Board of Education from refusing to offer Trade and Industrial Courses previously offered and terminated as a result of the creation of the new school districts in Halifax County as hereinafter complained of.

6. Enjoining the Halifax County Board of Education from ceasing to control and operate any of the schools or school plants previously operated and needed by the county for the operation of its schools and conveyed to the new school districts solely because of the needs of the newly created school districts.

And this is a proceeding for a Declaratory Judgment declaring the following:

a. The Act of the North Carolina General Assembly, Chapter 31, 1969 Sessions Laws, creating the Scotland Neck City Board of Education and Administrative Unit, void and unconstitutional for reasons hereinafter given.

b. The Act of the North Carolina General Assembly, Chapter 628, 1969 Sessions Laws, creating the Littleton-Lake Gaston School District and Administrative Unit, void and unconstitutional for reasons hereinafter given.

c. That any legislative act which achieves its purpose of creating school district lines drawn in such a manner as to include the largest number of white students and to exclude the largest number of black or Negro students as an legislative effort to encourage and foster continued segregation on the basis of race or color in the operation of the public school of North Carolina, is void and unconstitutional.

d. That the Act and actions of the Scotland Neck City Board of Education and the Halifax County Board of Education and the North Carolina State Board of Education, in extending the school district line or boundary of the Scotland Neck City School District so as to only include the plant and property of the County operated Scotland Neck Junior High School, is void and unconstitutional for reasons hereinafter given.

e. That the policy, practice, and pattern of the Halifax County Board of Education in subjecting Negro or black public school teachers in integrated schools, to frivolous, arbitrary and malicious "CHARGES" and to administrative "Hearing" as part of the enforcement of the UNWRITTEN LAW against black teachers, which law punishes for the Negro or black teacher exercising disciplinary authority against students of the opposite race, being void and unconstitutional for reasons herein given.

4. That the Plaintiff, Pattie Black Cotton, is a Negro or black public school teacher and a citizen of the United States and the State of North Carolina. She is 27 years

of age and presently resides with her husband and two children in Northampton County, North Carolina. That she has six years of teaching experience, the last four of which were with the Halifax County Board of Education with the past two years having been assigned to the WILLIAM R. DAVIE SCHOOL, being the first black teacher employed in the Elementary Department thereof and is currently assigned to a teaching position at the WILLIAM R. DAVIE SCHOOL near Roanoke Rapids, North Carolina. That Plaintiff, Pattie Black Cotton possesses all the necesary qualifications for teaching in the public schools of the State of North Carolina but has been the subject of criminal "Charges" and Administrative Charges" which have created doubt and uncertainty as to the profesional, legal and ethical rights of the Plaintiff and other black teachers similarly situated where actions reflecting on the abilities and status of the teacher and her competency are based on violations of the Code of Ethics of the Education Profession and for the purpose of satisfying racists elements among some parents and teachers.

5. That the Plaintiff, Edward M. Francis, is a Negro or black citizens of the United States and the State of North Carolina, residing in Enfield, Halifax County, North Carolina. That from 1967 until his contract was terminated by letter dated June 3rd, 1969, he was a Trade and Industrial Teacher in the Town of Scotland Neck. That Plaintiff, Edward M. Francis possesses all of the qualifications for continued teaching of trade courses in Halifax County but is presently unemployed by Halifax County solely because of the creation of the Scotland Neck City Administrative Unit and the resulting loss of certain trade courses needed by and applied for by students in the Scotland Neck area as will hereinafter appear. That Plaintiff, Edward M. Francis has applied to Halifax County for other employment but has not been employed.

6. That the Plaintiff, Rodney Bennett, a minor, by his father and next friend, Lanell Bennett and the other 34 families listed in the Motion to Intervene and in the entitlement above as Scotland Neck Residents, are resi-

dents within the Town limits of Scotland Neck with the exception of Vickie Deloatch, a minor, by her parents and next friend, Rev. and Mrs. C. M. Deloarch who are outside the Town limits at the edge of Town. That all of the minors and their adult next friend are Negroes and citizens of the United States and North Carolina and Halifax County.

7. That the Plaintiffs, ERNEST L. ALSTON, a minor, by his grandparents and next friend, Mr. and Mrs. Tom M. Alston and all other minors and their adult next friend listed in the Motion to Intervene and in the above entitlement as residing in the Littleton-Lake Gaston School District in Halifax County, Littleton Township, are residents of the newly created school district, and all are citizens of the United States and of North Carolina and the adult friends are tax payers in Halifax County.

8. That the Defendant, HALIFAX COUNTY BOARD OF EDUCATION, is a public body corporate, organized and esisting under the laws of the State of North Carolina. The Defendant Board maintains and generally supervises the public schools of Halifax County Administrative Unit, acting pursuant to direction and authority contained in the State's Constitution and statutory provisions. As such, the Board is an arm of the State of North Carolina, enforcing and exercising State laws and policies. Among its duties, the Defendant Board assigns students to the various public schools and hires and assigns teachers and professional school personal to duties in the Halifax County Administrative Unit.

That by special act of the North Carolina Legislature, to wit: Chapter 31, 1969 Session Laws creating the Scatland Neck Administrative Unit and by Chapter 628, 1969 Sessions Laws, which created the Littleton-Lake Gaston School District, the Defendant Board is given additional duties as set forth in the 1969 legislative acts hereinafter complained of.

That the Defendant, W. Henry Overman, is Superintendent of the Halifax County Schools and has been such for more than 20 years. That as Superintendent, he is charged with the duty, among others, of recommending

teachers and professional personnel for duties and assignment of students to the various schools in the Halifax County School System.

9. That the Defendant Board of County Commissioners of Halifax County, pursuant to the laws and Constitution of the State of North Carolina, is charged with providing funds for the construction and maintenance of buildings, property and facilities necessary for the operation of the school system in Halifax County and with securing and expending monies to supplement those monies allocated and disbursed by the State of North Carolina for the operation of the schools. That Defendant Board of County Commissioners of Halifax County is given special duties pursuant to the special acts of the 1969 North Carolina General Allembly, to wit: Chapter 31, 1969 Sessions Laws creating the Scotland Neck City Administrative Unit and Chapter 629, 1969 Sessions La2s creating the Littleton-Lake Gaston School District as hereinafter complained of.

10. That the Defendant, Scotland Neck City Board of Education, is a public body corporate by virtue of Chapter 31, 1969 Sessions Laws as hereinafter complained of. The Defendant, Franklin B. Bailey, is the elected Superintendent for the Scotland Neck City Schools.

11. That the Littleton-Lake Gaston School District, is a public body corporate by virtue of Chapter 628, 1969 Sessions Laws as hereinafter complained of. The Defendant, Russell N. Manning is the duly elected Superintendent of the Littleton-Lake Gaston School District.

12. That the Defendant, North Carolina State Board of Education, is a public body corporate of the State of North Carolina, and is charged, by virtue of the State Constitution and the laws of the State of North Carolina. with general supervision and administration of the educational funds for all of the local boards of the State, including the Halifax County Board, the Scotland Neck City Board and the Littleton-Lake Gaston Board of Education or District and with the division and creation of local boards into administrative units; and the apportionment and division of the State funds and all funds provided by the Federal Government for assistance to

educational programs in the State which are administered by local boards; the authority is given to accept, receive use or reallocate to local boards, any federal funds or aids that may be appropriated now or hereafter for the encouragement and improvement of any phase of the free public school program, which in said defendant's discretion, is beneficial to the operation of the public schools of North Carolina; and is given AUTHORITY TO ALTER THE BOUNDARIES OF ANY ADMINISTRATIVE UNIT, and authority to provide for the enrichment and strengthening of educational opportunities for all school children of the State and to allot teachers to all local boards of education of the State; authority to allot clerical assistance to the various local boards of the State; authority to determine teacher, principal and school personnel certification; authority to provide library resources, textbooks and other instructional resources for the various local boads; authority to direct and approve generally, school construction for the schools and additions in the various school systems of the State; and authority for allocation of school buses and approval of bus routes for the various school systems of the State.

13. That the Defendant, DR. A. CRAIG PHILLIPS, is the duly elected State Superintendent of public instruction of the State of North Carolina, who is the administrative head of the public school system of the State and pursuant to the laws of the State of North Carolina, is a member and the Secretary of the State Board of Education. He is charged with organizing and establishing the State Department of Public Instruction in order that he may supervise and administer the publis school system of the State of North Carolina. He is charged with making recommendations to the Governor and the State Board of Education concerning public education within the State of North Carolina and with administering the instructional policies and programs of the State Board of Education.

14. That the above named Plaintiffs bring this action on their own behalf and on behalf of other teachers and students similarly situated, pursuant to Rule 23(a) and (b) and Rule 24 of the Federal Rules of Civil Procedure.

There are common questions of law and fact affecting the rights of the Plaintiffs and other similarly situated who are seeking an educational system in Halifax County free of racially discriminatory practices, policies, customs and the artificial racial quota achieved by the creation of new school district lines and school units herein complained of, who are so numberous as to make it impracticable to bring them all individually before the Court but there are common grievances arising out of common wrongs and common relief is sought herein for each class and members of the class. That the claims and defenses of the Plaintiffs are typical of the claims and defenses of the class and classes and that the Plaintiffs fairly and adequately represent the interest of the class and classes.

15. What the Plaintiff, Edward M. Francis, was teaching the trade of carpentry at the Scotland Neck High School from 1967 until his teaching contract was terminated solely because of the creation of the Scotland Neck City Administrative Unit herein complained of. That the letter terminating said Plaintiff's teaching contract was received June 5, 1969 and reading as follows:

"Mr. Edward M. Francis
305 Bell Street Ext.
Enfield, N. C.

Dear Mr. Francis;

DUE TO THE ESTABLISHMENT OF THE SCOTLAND NECK SCHOOL ADMINISTRATIVE UNIT, THE HALIFAX COUNTY BOARD OF EDUCATION IN MEETING HELD ON MAY 5, 1969, DIRECTED THAT YOU BE NOTIFIED THAT YOUR EMPLOYMENT IN THE HALIFAX COUNTY SCHOOL ADMINISTRATIVE UNIT TERMINATED AT THE CLOSE OF THE 1968-69 SCHOOL TERM. THIS ACTION HAS BEEN TAKEN IN ORDER THAT YOU MAY FEEL FREE TO APPLY FOR AND ACCEPT EMPLOYMENT IN THE SCOTLAND NECK UNIT.

If you desire to teach in the Halifax County Administrative Unit during the 1969-70 school year,

please indicate this by filling out and mailing to the office of Superintendent of School, Halifax, N. C. the enclosed application form. The application will be considered in the same manner as all teachers are employed.

Because of the fact that we shall be filling vacancies in the Halifax County School Unit as early as possible, I shall appreciate it if you will return the application form *at once* and not later than the close of the school term, if you desire employment in the Halifax County Unit.

I wish to express appreciation for the service you have rendered while employed in the Halifax County Administrative Unit and for the contribution you have made to the educational program.

Sincerely yours,

S/W. Henry Overman,
Superintendent
Halifax County Schools"

WHD:ar
Enclosure

and that said Plaintiff applied for a teaching position with the Halifax County Unit as directed but has not been employed.

16. That the Halifax County Board of Education is currently operating the Scotland Neck Schools pursuant to a temporary Order of this Court but refuses and fails to re-employ the Plaintiff, Edward M. Francis and refuses and fails to offer to the students the trade course previously offered.

17. That the Plaintiffs, Edward M. Francis and the minor student Plaintiffs described in Paragraphs 5, 6 and 7 above, have suffered irreparable damage and injury and a invasion of their constitutional rights by the creation of the Scotland Neck City Administrative Unit and the Littleton-Lake Gaston School District and will continue to suffer damages and injury unless the creation of

said units is declared unconstitutional and their operation permanently enjoined by this Court.

18. That the 1969 Session of the North Carolina General Assembly, in order to encourage, provide for and to perpetuate racial secregation in the black belt counties of eastern North Carolina, set a precedent and created a new State policy of establishing entremely small school administrative units out of county administrative units where there is a large black or Neegro population and to establish the lines of the new districts in such a manner as to include the largest number of white students and to exclude the largest possible number of black or Negro students, and pursuant to said new policy, did enact into law, new school separation districts or units for adjoing Halifax and Warren Counties in Eastern North Carolina.

19. That the 1969 Session of the North Carolina General Assembly, pursuant to said policy, enacted laws creating two new school administrative units from the Halifax County Administrative Unit by carving out of the eastern section of the County, the Scotland Neck City Administrative Unit with district lines co-extensive with the boundaries of the Town of Scotland Neck and on the western part of the county, carving out the Littleton-Lake Gaston School District with lines including the Town of Littleton and parts of Halifax and Warren Counties. A third new unit was carved out of the Warren County Administrative Unit and given boundary lines commensurate with those of the Town of Warrenton. That all of the enactments were opposed in the State Legislature by the Plaintiffs through the EASTERN COUNCIL ON COMMUNITY AFFAIRS as will herein appear.

20. That the Scotland Neck School separation was known as House Bill No. 22 and was enacted into law on March 3rd, 1969 by statute known as "Chapter 31 1969 Session Laws", hereafter referred to as "Chapter 31". That the said statute became effective and operative on April 8th, 1969 as a result of a favorable vote in a referendum or special election held on said date. That the school board of the unit and its Superintendent are Defendants in this action.

21. That the Littleton-Lake Gaston School separation District was known as Senate Bill 446 and was enacted into law on the 26th day of May, 1969, by the statute known as "Chapter 628, 1969 Session Laws". (hereafter referred to as "Chapter 628".) That the said statute became operative and effective on July 22nd, 1969 as a result of a favorable vote in a referendum or special election held on said date. That the Littleton-Lake Gaston District and its Superintendent are parties Defendant in this action.

22. That the Warrenton City School District separation was known as House Bill 639 and was enacted into law on the 23rd day of May, 1969 by statute known as "Chapter 578, 1969 Session Laws". That said statute became operative and effective on July 1st, 1969 as a result of a favorable vote in a referendum or special election held and had on said date, and that said Act is under attack in Alfred Turner et al vs Warren County Board of Education et al, Civil Action No. 1432, which case also attacks the Littleton-Lake Gaston District herein attacked.

23. That each of the newly enacted school separation statutes to wit: "Chapter 31", "Chapter 628", and "Chapter 578 of the Sessions Laws"; provides that upon becoming effective, all county school properties located within the new unit, the new administrative unit and all monies allocated for schools within the new unit and all other school properties located within the new unit, shall become the properties of the new unit "By Force Of This Act". That each of the acts provided for a supplemental tax of not more than fifty cents (.50¢) on each one hundred dollars of the assessed value of the real and personal property taxable in the portion of the new unit. Each of the new units passed the tax supplement in the special election held for the unit.

24. That the Board of Commissioners and County Board of Education of Halifax County are given duties and responsibilities under "Chapter 31 and Chapter 628 of the 1969 Session Laws" and are Defendants in this action.

25. That the Scotland Neck Administrative Unit will have an estimated 193 Negro or black students of which

the above named Plaintiff-students of Scotland Neck are members of the class and along with an estimated 736 white students, will form the total student body of the newly created Scotland Neck School Unit.

26. That the Plaintiff-students listed in the above Title are residents of the Littleton-Lake Gaston District and part of an estimated 200 Negro or black students within the jurisdiction of the Littleton-Lake Gaston School District, who along with an estimated 400 hundred white students, will compose the entire student body of the Littleton-Lake Gaston School District.

27. That each of the school separation units complained of, to wit: The Scotland Neck City Unit, "Chapter 31", the Littleton-Lake Gaston Units, "Chapter 628", and the Warrenton City Unit, "Chapter 578", will have a total enrollment of less than one thousand students when fully operative, including the transfer of white students under the tuition plan of the units and that the ratio of students by race in each unit will be 4 to 1 in favor of the white students while the ratio by races in the respective counties is 4 to 1 in favor of the Negro or black students and that due to the smallness of each of the units, each is financially and educationally unsound.

28. That the racism of the school separation units herein complained of was known to the State Legislature when the statutes were Bills before the Legislature. That the Plaintiffs, through the Eastern Council On Community Affairs, opposed each of the statutes as Bills before the Legislature. That on February 19th, 1969, the Scotland Neck Separation Bill known as "Chapter 31" and House Bill 22, was opposed before the Senate's, Finance Committee as being racists, a copy of the opposition is hereto attached and marked as EXHIBIT "A". That by letter dated February 25, 1969 the council requested a hearing before the Education Committee of the Senate but the Bill was enacted into law by by-passing the Education Committee of the Senate to avoid the Bill being defeated in the committee because of racism and lack of educational merit. That on April 30, 1969, The Littleton-Lake Gaston School District, "Chapter 628, as Senate Bill No. 446", was opposed as being racists, a copy of the opposition is

hereto attached and marked as EXHIBIT "B". That on May 14th, 1969, "Chapter 578, as House Bill No. 639" creating the Warrenton City School District, was opposed by the Eastern Council on Community Affairs as being racists, upon the same grounds appearing in the attack against the other Bills, which argument is hereto attached.

29. That on or about the 5th day of June, the Defendant North Carolina State Board of Education, following the consent and requests of the Defendants Scotland Neck City School Board and the Halifax County Board of Education, extended the boundary lines of the newly created Scotland Neck District to include the boundary and school plant of the Scotland Neck Junior High School, owned and operated by the Halifax County Board of Education and operated as one of the four integrated schools in Halifax County during the 1968-69 academic year. That by this action, two of the three schools in the Scotland Neck City School District have been taken over by and conveyed to the newly created Scotland Neck City School District and that not enough school plants are left in the county to meet the needs of the students left in the County Unit, being mostly of the Negro or, black students, race.

30. That a controversy exists as to the rights of certain public school teachers to continue their contract with the Halifax County Board of Education, and the right of students within the newly created school district units to remain in and with the jurisdiction of the Halifax County and the constitutionality of the acts of the North Carolina General Assembly creating Scotland Neck City Administrative unit, "Chapter 31" and the act creating the Littleton-Lake Gaston School District, Chapter 628 and the action of the North Carolina State Board of Education in extending the boundary lines of the Scotland Neck City Unit to include County property and school plant owned by the Halifax County Board of Education and needed by the County for the Negro or black student remaining in the County Unit.

31. That unless such school separation acts are declared unconstitutional by this Court, the North Carolina General Assembly will continue to enact racists school statutes which gerrymander new school district school lines in

such a manner as to include and provide for the largest possible number of white students while excluding the largest possible number of Negro or black students and unless restrained and enjoined by this Court, the Defendant Boards of Education and Boards of County Commissioners will continue to give force and effect to the provisions of the statutes complained of herein, to wit: "Chapter 31, Chapter 628, and Chapter 578 of the 1969 Sessions Laws" and extend the boundaries thereof to take from the respective counties, school property and buildings belonging to and being operated by the county boards of education, all in violation of violation of the right of the Plaintiff students and teachers as guaranteed and secured to them by the Fourteenth Amendment to the United States Constitution.

32. That the North Carolina Statute, "Chapter 31, 1969 Sessions Laws", creating the Scotland Neck City Administrative Unit and the North Carolina Statute, "Chapter 628, 1969 Session Laws", Creating the Littleton-Lake Gaston School District Administrative Unit and "Chapter 578 of the Session Laws", creating the Warrenton City Administrative Unit, are all void and unconstitutional as enacted by the North Carolina General Assembly and as applied to the Negro or black people in Eastern North Carolina and the Plaintiffs herein as affected students and teachers, for the same are in conflict with and repugnant to the Due Process and the Equal Protection of the Fourteenth Amendment to the United States Constitution for reasons as follows:

1. That the North Carolina Legislature, by enacting the Scotland Neck School Separation Bill and the Littleton-Lake Gaston School Separation Bill and the Warrenton School Separation Bill, as "Chapter 31, 628, and 578, 1969 Sessions Laws", intended to deny and did deny to the Negro or black students in Halifax and Warren Counties, an opportunity for public school integration as required by Federal Law by cutting off and withdrawing the white students from the county school system and providing for the segregation of white students in small school units which are protected from the black majority by newly created school district lines drawn in a manner so as to exclude the majority of the Negro or black students and

to include the majority of white students in the county district area.

2. That the North Carolina Legislature, by enacting "Chapter 31, 628, and 578, 1969 Sessions Laws", created miniature school districts with an artificial white majority students body in the Towns of Scotland Neck, Littleton and Warrenton in Halifax and Warren Counties in Eastern Carolina and provided a means and method of white students in Halifax and Warren Counties avoiding school integration being required of county schools by admission to the new school units upon the payment of a tuition fee which white parents will pay for school segregation and which Negro or black parents are unable to pay or unwilling to pay for as an additional expense of public education.

3. That the North Carolina Legislature, by enacting "Chapter 31, 628 and 578, 1969 Sessions Laws", creating new school district lines in Halifax and Warren Counties, arbitrarily, capriciously and unreasonably created miniature school districts with lines including the residences of the student plaintiffs and removing the student-plaintiffs from the county unit or district where members of the student-plaintiffs in the newly created unit or district where students of the white race are in a 4 to 1 majority as artificially created by the Legislature gerrymandering school district lines for the purpose of perpetuating racial segregation in violation of and contrary to Due Process of Law.

4. That the North Carolina Legislature, By enacting "Chapter 31, 628, and 578, 1969 Sessions Laws", creating and including the student-plaintiff within miniature school districts, arbitrarily, capriciously, and unreasonably deprived the student-plaintiffs and other Negro students, of the benefits and the advantages of the larger county unit, including school personnel, programs, activities, and curriculum afforded by the larger school units and placed the student-plaintiffs in a miniature school district with a white majority student body with educational disadvantages, including limited school personnel, activities, programs and curriculum and with financial burdens of a supplemental taxes to support continuing racial segregation for the white students in the newly created school units.

5. That the State Legislature, by enacting "Chapter 31, 628, and 578, 1969 Sessions Laws", re-established and reiterated a state policy of giving first choice and priority where members of the white race are involved as a majority race and caused the State Board of Education and the Halifax County Board of Education to deprive the Negro or black students of Halifax County of the use and benefit of the Scotland Neck Junior High School, operated by the County Board as an integrated school, and to surrender the Junior High School to the newly created Scotland Neck City School Board by extending the district lines of the City Board and school district to include county property outside the town limits of the Town of Scotland Neck and to include the Scotland Neck Junior High School, all for the purpose of providing for and continuing the racial segregation achieved in the creation of the Scotland Neck City Administrative Unit.

6. That the State Legislature, by enacting Chapters 31, 628 and 578, 1969 Session Laws, reversed the State Policy of consolidating small school units in order to achieve better economy and educational advantages only afforded by larger school units and estabilshed a new policy for counties where there is a large Negro or black population, with the new policy being to create MINIATURE and racially fixed school units with lines of the District so drawn that the unit will foster and perpetuate racial segregation in the public schools in the State of North Carolina.

SECOND COUNT

33. That for the SECOND COUNT of this Complaint, the Plaintiff, Pattie Black Cotton, re-alleges Paragraphs 1, 2, 3, 4, 8, 12, 13 and 14 of the First Count above in this Complaint and hereby incorporates the same in this paragraph to the same extent as if herein fully set out.

34. That the Plaintiff, Pattie Black Cotton, is and has been a victim of white racism prevalent in Halifax County to an unusual degree and affecting the operation of the schools and the status of Negro or black teachers assigned to integrated schools in Halifax County. That racism in Halifax County has caused the Plaintiff and other black

or Negro teachers to be denied privileges and immunities of public school teachers and equal protection of the school laws and to suffer and endure criminal and administrative "Charges" for the violation of the UNWRITTEN LAWS forbidding Negro or black teachers from exercising their rights under public authority to discipline school children who happen to be members of the opposite race.

35. That the Plaintiff, Pattie Black Cotton, and other Negro or black public school teachers in Halifax County are entitled to the same rights, privileges and immunities when assigned to an integrated school as in a segregated public school and are entitled to the equal protection of State laws for public school teachers, particularly so much of North Carolina General Statutes 115-146 as reads as follows;

> "IT SHALL BE THE DUTY OF ALL TEACHERS TO MAINTAIN GOOD ORDER AND DISCIPLINE IN THEIR RESPECTIVE SCHOOLS. _____ PRINCIPALS AND TEACHERS IN THE PUBLIC SCHOOLS OF THIS STATE MAY USE REASONABLE FORCE IN THE EXERCISE OF LAWFUL AUTHORITY TO RESTRAIN OR CORRECT PUPILS AND MAINTAIN ORDER. NO COUNTY OR CITY BOARD OF EDUCATION OR DISTRICT COMMITTEE SHALL PROMULGATE OR CONTINUE IN IN EFFECT A RULE, REGULATION OR BYLAW WHICH PROHIBITS THE USE OF SUCH FORCE AS IS SPECIFIED IN THIS SECTION".

36. That the Plaintiff, Pattie Black Cotton and other Negro or black public school teachers in Halifax County, N. C., are entitled to the same rights, privileges, immunities and professional regard as are required by the CODE OF ETHICS OF THE EDUCATION PROFESSION as adopted by the NATIONAL EDUCATIONAL ASSOCIATION and the Associations of the State of North Carolina, a printed copy of the 1968 edition is hereto attached and marked as EXHIBIT "C".

37. That notwithstanding the professional status and authority given the Plaintiff by the North Carolina School

Laws, the Halifax County District Court, on July 22nd, 1969, convicted the Plaintiff under the UNWRITTEN LAWS upon a criminal "Charge" made against the Plaintiff by a white parent of a student in the Plaintiff's class room who had engaged in an affray therein;

> "The undersigned, Mrs. Marvin W. Tanner, upon information and belief, being duly sworn, complains and says that at and in the county named above and on or about the 6th day of May, 1969, THE DEFENDANT NAMED ABOVE DID UNLAWFULLY, WILFULLY and MALICIOUSLY ASSAULT MARVIN TANNER, A CHILD OF TEN YEARS OF AGE WITH A DEADLY WEAPON, to wit; A RULER, BY HITTING HIM ACROSS THE HIP TEN TIMES"

and that the Halifax County District Judge found the Plaintiff "Guilty" and pronounced Judgment imposing a sixty day (60) jail term upon the Plaintiff which was suspended upon the condition that the Plaintiff "Pay a fine of $50.00 and costs of the court" from which judgment, the Plaintiff appealed to the Superior Court of Halifax County and the cause is pending in that Court.

38. That on May 27th, 1969 and while the Plaintiff was in performance of her teaching duties at the integrated William R. Davie School operated by the Defendant, Halifax County Board of Education, the Defendant, W. Henry Overman, Superintendent of Halifax County Schools, appeared in person and delivered to the Plaintiff a letter, a copy of which is hereto attached and marked as EXHIBIT "D", containing the following administrative "Charges" against the Plaintiff:

> "(1) Failure to teach and grade pupils properly in your classes."
>
> "(2) Neglectful about teaching methods by refusing to answer questions and to give help when asked by pupils."
>
> "(3) Refusing to let children eat lunch as punishment."
>
> "(4) Staying out of classroom for long periods of time."

"(5) Failure to introduce new subjects in a manner that is understood by a majority of the class."

"(6) Creating an atmosphere of fear in the classroom causing students to be afraid to ask questions because they might be ridiculed".

and that the letter gave the purpose of the charges as "The Halifax County Board of Education will conduct a hearing to determine whether or not you will be dismissed from your present employment as a teacher in the Halifax County School System as provided for in N. C. G. S. 115-145".

39. That a hearing upon the above named charges was held by the Halifax County Board of Education on the 12th day of June, 1969 at which time the Defendant, Halifax County Board, permitted a white school teacher from the same William R. Davie School where the Plaintiff is employed, to appear before it and violate the Code of Ethics of the Education Profession to the harm and injury of the Plaintiff in that the Board permitted and encouraged (Mrs.) Elizabeth Mockaday to disregard the professional status of the Plaintiff and herself as public school teachers at the WILLIAM R. DAVIE SCHOOL and to violate PRINCIPAL 111 (Commitment to the Profession) particularly SECTIONS 2, 4, and 8 thereof as appears in EXHIBIT "C" hereto attached and reading as follows:

"2. SHALL ACCORD JUST AND EQUITABLE TREATMENT TO ALL MEMBERS OF THE PROFESSION IN THE EXERCISE OF THEIR PROFESSIONAL RIGHTS AND RESPONSIBILITIES."

"4. SHALL WITHHOLD AND SAFEGUARD INFORMATION ACQUIRED ABOUT COLLEAGUES IN THE COURSE OF EMPLOYMENT."

"8. SHALL NOT KNOWINGLY DISTORT EVALUATIONS OF COLLEAGUES."

and that a Transcript of said hearing was made and contains some of the false evaluations and statements of Mrs.

Elizabeth Hockaday and others concerning the Plaintiff as a black or Negro public school teacher and that Plaintiff has not been informed of any decision of the School Board and she is uncertain as to just what effect the false and unethical statements will have on her future employment and professional rating as a public school teacher in Halifax County if left unchallenged and shown to be professional unethical.

40. That the "Charges" set forth in Paragraph 38 above were delivered to the Plaintiff by the Defendant Superintendent in person in the Defendant's visit to Plaintiffs classroom and the said "Charges" were made and prepared after criminal "Charges" were brought against the Plaintiff. That both the criminal Charge and the administrative charges were brought for the purpose and at the time to create fear and insecurity in the black teachers in integrated schools and are frivolous, malicious totally without cause and result in harassment and vexation to the Plaintiff and other Negro or black public school teachers in Halifax County and serve the cause of creating racial destruct and discord in the WILLIAM R. DAVIE SCHOOL COMMUNITY and promote the growth of the newly organized private school in the school community; to wit; THE HALIFAX ACADEMY.

41. That the Plaintiff, Pattie Black Cotton is currently employed by Halifax County and assigned at the William R. Davie School operated by Halifax County Board of Education and is now in her third year at the school.

42. That the Defendant, HALIFAX COUNTY BOARD OF EDUCATION, through its Superintendent and AREA COUNCILS, will continue to file and hear arbitrary, frivolous and malicious administration "Charges" against Negro or black public school teachers in yielding to pressure from white racists in Halifax County to subject black teachers to harassment, vexation and professional degradation and to use Administrative "Charges" and criminal "Charges" and hearings as a means of dismissing black or Negro Public School Teachers from Halifax County School System, unless enjoined and restrained by this Court.

43. That the Plaintiff, Pattie Black Cotton, as a Negro or black public school teacher in an integrated public

school, is uncertain as to her rights, privileges and immunities and as to the duty owed to her and other black teachers by white public school teachers in the same school and school system and she is uncertain as to the application of the Code of Ethics of the Education Profession as a legal standard where members of the profession are of the opposite race and as to the application of the Code of Ethics of the Education Profession as a legal standard where members of the profession are of the opposite race and as to the application of the Code of Ethics of the Education Profession to the boards of education and administrative officers where black teachers in integrated school are the subject of "Charges" and community resentment of integrated schools.

44. That a CONTROVERSY exists between the Plaintiff, Pattie Black Cotton, as a member of the Negro or black race, and the following;

A. The Defendant, HALIFAX COUNTY BOARD OF EDUCATION and the Plaintiff as to the duties owed to the Plaintiff by the Halifax County Board of Education in protecting the Plaintiff from unprofessional conduct of white teachers in violation of the Code of Ethics of the Education Profession and as to the application of the Code of Ethics of the Education Profession to boards of education.

B. The white or members of the Causasian race who are public school teachers in an integrated public school and the Plaintiff, and other Negro or black public school teachers as to the duties and professional respect owed to the Plaintiff and others in the same school and profession as measured by the Code of Ethics of the Education Profession as adopted by the National Education Association and State Associations.

C. That a controversy exists as to the application of the Code of Ethics of the Education Profession as a legal standard for the measurement of professional conduct and relationship between black or Negro Public School Teachers and the boards of education and the Public School Teachers of the Opposite Race.

WHEREFORE, the Plaintiffs pray as follows:

1. That the Court declare that the Act of the North Carolina General Assembly, Chapter 31, 1969 Session Laws, creating the Scotland Neck City School Administrative Unit, is void and unconstitutional for reasons stated in the Complaint.

2. That the Court declare that the Act of the North Carolina General Assembly, Chapter 628, 1969 Sessions Laws, creating the LITTLETON-LAKE GASTON SCHOOL DISTRICT, is void and unconstitutional for reasons stated in the Complaint.

3. That the Court declare that the Action of the Scotland Neck City Board of Education and of the Halifax County Board of Education and of the North Carolina State Board of Education, in extending the original lines or boundary of the Scotland Neck School Administrative District to include and encompass the Scotland Neck Junior High School located in the County School District, is void and unconstitutional for reasons stated in the Complaint.

4. That the Court declare that the policy, practice and pattern of the Halifax County Board of Education in subjecting black or Negro public school teachers in integrated schools, to frivolous, arbitrary and malicious "Charges" and "Hearings", as punishment for the violation of the UNWRITTEN LAW which forbids black persons from exercising public authority and discipline of persons of the opposite race, are void and unconstitutional for reasons stated in the Complaint.

5. That the Court declare that Negro or black public school teachers in integrated schools are entitled to the same professional respect and ethical treatment by the school board and white public school teachers as is established and practiced by members of the teaching profession in segregated schools and between persons of the same race or color and that the Plaintiff, Pattie Black Cotton, is entitled to have other teachers to show the same regard for her professional rights, privileges and imunities as is required by and measured by the standards of ethics of the Code of Ethics of the Education Profession as adopted by the National Education Asso-

ciation and the state teachers associations in the State of North Carolina.

6. That the Plaintiff, EDWARD M. FRANCIS, is entitled to re-instatement as a public school teacher because of the unconstitutionality of the Scotland Neck City Administrative Unit for reasons stated in the Complaint and that he be reinstated in the same or comparable teaching position as he held prior to the Scotland Neck school separation and his dismissal and that he be awarded compensation for expenses and loss of wages incurred as a result of his wrongful dismissal.

7. That this cause be advanced on the docket for immediate hearing and after such hearing, the Court preliminarily and permanently enjoin the following:

A. The Defendant HALIFAX COUNTY BOARD OF EDUCATION and its members and Superintendent;

1. From issuing or enforcing any order or directive individually or in concert with the Scotland Neck City Board of Education or the Littleton-Lake Gaston School District, requiring the Student-Plaintiffs or any other students similarly situated, to attend any public school or to submit to any school administrative authority, other than the Halifax County Board of Education.

2. From acting individually or in concert with or participation with or at the direction of others, in continuing the policy, practice, custom and usage of discriminating against the student-plaintiffs and teachers in the Halifax County schools and the members of their class because of race, creed or color, particularly in the assignment of students and teachers and in the hiring and dismissing of teachers or in refusing to hire them and other school personnel in the Halifax County Administrative Unit on the basis of race, creed or color.

3. From condoning, encouraging, accomodating or acting in concert with white parents and

teachers in Halifax County in denying to the Negro or black public school teacher in integrated public schools, the same ethical treatment and accord of professional respect and regard for professional rights and responsibilities as accorded white public school teachers and as required by the standards of the Code of Ethics of the Education Profession as adopted by the National Education Association and State associations.

4. From terminating teaching contracts or refusing to rehire teachers whose contracts were terminated solely because of the creation of the Scotland Neck City Administrative Unit or the Littleton Lake Gaston School District.

5. From refusing to offer Trade Courses and other courses previously offered in the county system and terminated solely as a result of the creation of the Scotland Neck City Administrative Unit or the Littleton-Lake Gaston School District.

6. From ceasing to operate and control the property of the Halifax County Schools and the school plant known as the Scotland Neck Junior High School and included in the extention of the school district lines of the Scotland Neck City Administrative Unit.

7. From failing and refusing to consider the black or Negro parents and teachers in the formulation of school zone lines, grade consolidation or both in order to completely desegregate all the public schools in the Halifax County School System within the time specified by the Court.

8. To completely desegregate all teachers and school personnel in the school system so that the percentage of Negro and white teachers and school personnel in all schools in the county school system will approximate the number of Negro and white teachers in the school system.

9. To discontinue and eliminate and and all other practices and customs in the Halifax County School System based on race or color.

10. From performing any of the acts or duties required by Chapter 31 of the Sessions Laws, 1969, creating the Scotland Neck City Administrative Unit or Chapter 628, creating the Littleton-Lake Gaston School District.

B. The Defendant, BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY;

1. From performing any of the duties required of it by Chapters 31 and 628 of the 1969 Sessions Laws Creating the Scotland Neck and the Littleton-Lake Gaston School Districts.

2. From continuing to authorize, sanction or encourage practices, programs and activities, including school construction and additions, designed to continue the racially segregated Public Schools in Halifax County, North Carolina.

3. From continuing to disburse funds to finance facially segregated practices and policies in the Halifax County School system or which tend to perpetuate racial segregation in Halifax County, North Carolina.

4. From failing and refusing to take affirmative steps and actions to compel the elimination of the racially discriminatory practices in the Halifax County Public School System.

C. The Defendant, SCOTLAND NECK CITY BOARD OF EDUCATION and its Superintendent as follows;

1. From performing any of the functions, acts or duties required by Chapter 31, Sessions Laws, 1969, North Carolina General Assembly.

D. THE LITTLETON-LAKE GASTON SCHOOL DISTRICT and its Superintendent, Defendants herein;

1. From performing any of the functions acts or duties required of it by Chapter 628 of the

1969 Sessions Laws of the North Carolina General Assembly.

E. The Defendant, NORTH CAROLINA STATE BOARD OF EDUCATION and DR. A. CRAIG PHILLIPS, Superintendent of Public Instruction;

1. From allocating any teachers, principals and other school personnel or from continuing to allocate teachers, principals and school personnel or to disburse any State or Federal Funds to the school district units created by the North Carolina General Assembly, Statutes Chapter 31 and Chapter 628 creating the Scotland Neck City Administrative Unit and the Littleton-Lake Gaston School District

2. From continuing to authorize, sanction or to encourage the practices, programs and activities designed to continue racially segregated schools in Halifax County, North Carolina.

3. From continuing to allocate teachers, principals and school personnel to the Halifax County Board of Education in such a manner as to encourage or permit racial employment or assignment of such personnel;

4. From continuing to disburse State and Federal funds to finance racially segregated practices and policies in the Halifax County Schools or in a manner that will perpetuate or which tends to perpetuate such practices and policies.

5. From failing and refusing to take affirmative steps to compel the elimination of racially discriminatory practices in the Halifax County Public School System.

8. Plaintiffs further pray that necessary or permissible Defendants be made parties to this action as follows:

W. HENRY OVERMAN, Superintendent of Halifax County Schools;

BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY, a public body corporate;

SCOTLAND NECK CITY BOARD OF EDUCATION, a public body corporate, and FRANKLIN B. BAILEY, Superintendent of the Scotland Neck City Schools;

LITTLETON-LAKE GASTON SCHOOL DISTRICT, a public body corporate, and RUSSELL N. MANNING, Superintendent of Littleton-Lake Gaston School District;

NORTH CAROLINA STATE BOARD OF EDUCATION, a public body corporate, and DR. A. CRAIG PHILLIPS, North Carolina State Superintendent of Public Instruction.

9. Plaintiffs further pray that pending the full and complete desegregation of the Halifax County School System, that the Court retain jurisdiction of this cause; that the Plaintiffs be awarded their costs herein, including reasonable counsel fees and be granted such other and further relief as to the Court may appear equitable and proper.

This 1st day of November, 1969.

Respectfully submitted

/s/ James R. Walker, Jr.
JAMES R. WALKER, JR.
501 West 3rd Street
Weldon, North Carolina

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, North Carolina
Attorneys for the Plaintiffs

NORTH CAROLINA

NORTHAMPTON COUNTY

VERIFICATION

PATTIE BLACK COTTON, being first duly sworn, deposes and says; that she is a public school teacher in Halifax County and is a Plaintiff in the foregoing Complaint in Intervention; that she has read and knows the contents thereof; that the same are true of her personal knowledge, except those matters stated and alleged upon information and belief, and as to those matters, she believes them to be true.

/s/ Pattie Black Cotton
(Mrs.) PATTIE BLACK COTTON,
Affiant.

sworn to and subscribed before me
this 1st day of November, 1969

/s/ Helen C. Lewis
Notary Public
My Commission Expires March 6th, 1970

NORTH CAROLINA
HALIFAX COUNTY

VERIFICATION

EDWARD M. FRANCIS, being first duly sworn, deposes and says; that he is a resident of Enfield North Carolina and a former teacher in the Halifax County School System and is a Plaintiff in the foregoing Complaint in Intervention; That he has read and knows the contents thereof; that the same are true of his own personal knowledge, except those matters stated and alleged upon information and belief, and as to those matters he believes them to be true.

/s/ Edward M. Francis
EDWARD M. FRANCIS, Affiant.

Sworn to and subscribed before me
this 12 day of November, 1969

/s/ Cherry E. Clarke
Notary Public
My Commission Expires March 22, 1971.

[Caption Omitted]

ANSWER OF DEFENDANT SCOTLAND NECK CITY BOARD OF EDUCATION TO THE COMPLAINT IN INTERVENTION AND AN AFFIRMATIVE PLEA THAT THE COURT PRESERVE THE PRESENT STATUS OF SCHOOL ATTENDANCE IN THE SCOTLAND NECK SCHOOL PENDING THE FINAL DETERMINATION OF THE ISSUES IN THIS CAUSE

FIRST COUNT

1. To the Intervener-Plaintiffs adoption of the allegations of the original Complaint in this cause, this Defendant repeats its pleadings in defense thereto including its Answer and Amended Answer and First Further Answer heretofore filed.

2. This Defendant denies that the Intervener-Plaintiffs can invoke or have invoked properly the jurisdiction of this Court in any matter affecting this Defendant except the constitutionality of Chapter 31, 1969 Session Laws of North Carolina. Except as herein admitted as to the jurisdiction of this Court on the constitutional question the allegations of paragraph 2 are denied.

3. It is admitted that this is a proceeding seeking to restrain the defendant as is alleged in sub-section 1 of paragraph 3 of the Intervener Complaint.

With respect to the sub-heads 2, 3, 4 and 5 it does not appear that they are directed against or affect this Defendant. To the extent that they may be directed against this Defendant they are denied.

With respect to sub-paragraph 6 of paragraph 3 it appears that the seeking of the injunction there described is based on the premise that the constitutionality of the statute creating the Scotland Neck School District is upheld. Accepting that premise, this Defendant denies the propriety of granting the injunction sought.

With respect to the description of the proceedings for a declaratory judgment in sub-paragraph A, B, C, D and E of paragraph 3 this Defendant denies any and all of said such allegations of fact and such conclusions of law as are there stated against this Defendant and

denies the propriety of the granting of any one or more of the prayers for declaratory judgments therein described.

4. This Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 and therefore denies same.

5. This Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 and therefore denies same.

6. This Defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 and therefore denies same.

7. This defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and therefore denies same.

8. That the allegations of paragraph 8 are admitted.

9. That the allegations of paragraph 9 are admitted.

10. The allegations of paragraph 10 are admitted except that Franklin D. Bailey, who had been employed by this Defendant as Superintendent of the Scotland Neck City Schools was released from employment after the Preliminary Injunction was signed in this cause.

11. The allegations of paragraph 11 are admitted except that this Defendant has no information sufficient to form a belief as to the truth of the allegations relative to Russell N. Fanning and therefore denies same.

12. It is admitted that the North Carolina State Board of Education is an agency of the State and exercises such powers and duties as provided by the Constitution and laws of the State of North Carolina; that except as herein admitted Paragrph 12 is denied.

13. It is admitted that the Defendant, A. Craig Phillips, is the duly elected Superintendent of Public Instruction, and that he exercises such powers and duties as provided by the Constitution and laws of the State of North Carolina; that except as admitted the allegations of Paragraph 13 are denied.

14. The allegations of paragraph 14 are denied.

15. This Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 and therefore denies the same.

16. This Defendant has no knowledge or information

sufficient to form a belief as to the truth of the allegations of paragraph 16 and therefore denies the same.

17. The allegations of paragraph 17 are denied.

18. The allegations of paragraph 18 are denied.

19. The allegations of paragraph 19 are denied.

20. The allegations of paragraph 20 are admitted.

21. The allegations of paragraph 21 are admitted except that this defendant has no knowledge or information as to whether the making of the Littleton Lake Gaston School District and its Superintendent parties has been accomplished.

22. The allegations of paragraph 22 are admitted.

23. The allegations of paragraph 23 are admitted.

24. The allegations of paragraph 24 are admitted.

25. The allegations of paragraph 25 are denied.

26. This Defendant has no knowledge or information sufficient to form a belief as to the allegations of paragraph 26 and therefore denies same.

27. The allegations of paragraph 27 are denied.

28. The allegations of paragraph 28, as therein alleged, are denied.

29. The allegations of paragraph 29, as therein alleged, are denied.

30. The allegations of paragraph 30 are denied.

31. The allegations of paragraph 31 are denied.

32. The allegations of paragraph 32 are denied.

SECOND COUNT

33. This Defendant here adopts and again alleges its answers to paragraphs 1, 2, 3, 4, 8, 12, 13 and 14 of the First Count in the Complaint and hereby incorporates the same in this paragraph.

34. This Defendant has no knowledge or information sufficient to form a belief as to the allegations of paragraph 34 and therefore denies same.

35.-44. The allegations of the Intervener's Complaint contained in paragraphs 35-44 inclusive do not relate to any issue between Intervener-Plaintiffs and this Defendant and, therefore, it is not required that this Defendant answer them. If this Defendant should be required to answer them, it would allege that it has no knowledge or information sufficient to form a belief as to the truth of the allegations and would deny them.

FIRST FURTHER ANSWER AND AN AFFIRMATIVE PLEA THAT THE COURT PRESERVE THE PRESENT STATUS OF SCHOOL ATTENDANCE IN THE SCOTLAND NECK SCHOOL PENDING THE FINAL DETERMINATION OF THE ISSUES IN THIS CAUSE

For a First Further Answer and an affirmative plea that that Court preserve the present status of school attendance in the Scotland Neck School pending a final determination on the merits of the constitutional issue raised in the present action, this Defendant alleges and says:

1. The major relief sought by the Intervener-Plaintiffs against this Defendant is a Court declaration that Chapter 31 Session Laws of the General Assembly of North Carolina for the year 1969 violates the Constitution of the United States. The Intervener-Plaintiffs seek to support their claim of unconstitutionality by incorrect allegations of fact and unsound statements of law. The objectives stated by Intervener-Plaintiffs in their complaint would, if achieved, be in plain violation of the Constitution of the United States.

2. The 1969 Legislative Act creating a new school district defined its geographical limits as the lines encompassing the entire City of Scotland Neck. There were no new lines drawn.

3. The Act provided that it was to become effective only if the voters of Scotland Neck approved a school tax of $.50 on each $100.00 of property valuation in the City of Scotland Neck. The voters of Scotland Neck approved that tax.

4. At the time of the passage of the Act there were, and at this time there are, residing in the City of Scotland Neck approximately 800 children of school age. They are divided racially, approximately 57% white and 43% black. The school buildings within the corporate limits of Scotland Neck will accommodate, without crowding, approximately 830 students. The residential racial proportions of the population in Scotland Neck were achieved by natural free choice of residence by individual families

and not in any way by legally imposed racial segregation.

5. The Scotland Neck City Board of Education has, by its pleading, in this case and by its evidence heretofore taken, requested this Federal Court, upon approval of the constitutionality of the statute, to retain jurisdiction of the cause in order that the transfer of any students into or out of the Scotland Neck School should be within the view and under the supervision of the Court and subject to objection by interested parties and a hearing. There can be no disturbance of the racial proportions by transfer except as may be approved by the Court.

6. The defendant Scotland Neck City Board of Education and the great majority of the residents in Scotland Neck are determined, if permitted by this Court, to operate an improved school for all of the children of school age living within the boundaries of the City of Scotland Neck. It is their firm intent and purpose to operate such a school without any regard whatever to race and to treat every child alike, regardless of race, creed or color. It is their purpose and intent to operate a truly unitary school in Scotland Neck. It is the information and belief of the members of the Scotland Neck City Board of Education that such a unitary school will have the careful and interested attention of the people living in Scotland Neck; that it will have their enthusiastic support and will have the benefit of the determination of the people of Scotland Neck to make the unitary school work and to make it work now.

7. The success of the operation of a public school, in which there is no racial discrimination, under conditions as they exist today, can be assured best by the securing of strong community support. Without such community support, a public school cannot be successful.

8. The best interests of the children living in a community are served by the opportunity to attend a public school conducted in that community.

9. The children living within the boundaries of the City of Scotland Neck, both white children and black children, are entitled as a matter of right to have the opportunity to go to the public school in that community. To deny that right to any Scotland Neck child because

of his race would violate the Constitution of the United States.

10. Children who are living within the boundaries of the County of Halifax school system, before the enactment of the statute in question, were divided racially in ratio of approximately 80% black and 20% white. It is the objective of the Intervener-Plaintiffs that the Court shall declare the statute creating the Scotland Neck school district unconstitutional and shall order the School Board of the county system to so divide and transport the children that in every school in the County system there shall be a ratio of 80% black and 20% white. That would mean, of necessity, that many white children would have to be transported by bus from their homes in Scotland Neck to distant schools outside of Scotland Neck, and that many black students would have to be transported by bus from their homes far beyond the boundaries of Scotland Neck to the school within the boundaries of Scotland Neck. Neither the white students and their parents, nor the black students and their parents, desire this. A great majority of them are greatly opposed to it. The accomplishment of the objective of the Intervener-Plaintiffs would be the assigning and the transporting of children to schools on a basis solely of race. It is the declared law of this country that a unitary school shall be conducted regardless of race and that the objective is not to make any distinctions because of race. The assignment and the transportation of school children based solely on the color of the skin is a discrimination condemned by the constitution of the United States.

11. To bus a student, white or black, from his residence and away from a school in his residential community to a school many miles away, against the wishes of his parents and contrary to the best interests of the child and solely because of the color of his skin, is an act controlled completely by racial orgin. It is an act drawing only racial lines. It is an act which will increase racial consciousness and tend to breed racial animosities. It is racial discrimination condemned by the constitution of the United States and so held unconstitutional uniformly by all of our Courts until some recent difficult to understand decisions.

12. To assign and to transport children to schools far beyond their residential district schools solely because of race is so contrary to public policy and to the common sense which is the basis of common law as to offend the public sense of justice and create devastating doubts about the administration of justice.

13. The policy of pupil assignment and lengthy pupil bussing solely because of race will damage seriously and threaten to destroy the schools and even the social and governmental fabric of Scotland Neck, of Halifax County, of the State of North Carolina and of the United States of America. The inevitability of the incurring of such damage is assured by the fact that the Department of Justice and other agencies of the United States are not seeking to apply or to enforce in all geographical areas of the United States the policy of assigning and transporting students from community to community in order to achieve a predetermined racial mixture.

14. We have here, in this case an encouraging situation where a community earnestly desires to conduct in that community a unitary community public school without regard to race, creed or color, and where there is a realistic promise of success now. If such success could be achieved in the Scotland Neck School District there would result great benefit fo[r] the surrounding communities and counties and more ready acceptance of the conviction that racially mixed schools in those communities may be made to work satisfactorily.

15. The geographical zoning for a completely unitary school, as was contemplated by the legislation and as is promised by this Defendant, is just the kind of integration which was first contemplated and described as the ideal to be achieved in the opinion of the Supreme Court in the first Brown case (347 US 433 at page 495) where the Court directed that the attorneys in the case present to the Court in the future (the second Brown case) arguments on the point described by the Court as follows:

"4. Assuming it is decided that segregation in public schools violates the Fourteenth Amendment

"(a) would a decree necessarily follow providing that, within the limits set by normal geographic school dis-

tricting, Negro children should forthwith be admitted to schools of their choice, or

"(b) may this Court, in the exercise of its equity powers, permit an effective gradual adjustment to be brought about from existing segregated systems to a system not based on color distinctions?

16. A unitary Scotland Neck School, contemplated by the North Carolina statute and promised by this Defendant, is just the kind of solution to the problem of integration as was recommended with approval by the Supreme Court of the United States in the leading case *Green* v. *School Board of New Kent County* (391 US 430 at page 441 May 27, 1968) where it recommended ". . . for illustration zoning, promising speedier and more effective conversion to a unitary nonracial system . . .".

17. If, during the pendency of the final determination of the constitutionality of the Scotland Neck statute, there is granted the relief sought herein either by the Plaintiff or by the Intervener-Plaintiffs and if as a result thereof, the racial balance now existing between students living within the boundaries of Scotland Neck are changed and distorted so that the racial balance in the Scotland Neck School will be shifted to a very large black majority, irreparable injury will be done to the school in Scotland Neck and to those persons whose interests are represented by this Defendant. The people of Scotland Neck will despair of the conduct in that community of a satisfactory school. They will become alarmed by the threat of the developments as described in such publication as an article in the Monday, January 26th issue of "The National Observer", copy of which is attached to this First Further Answer as Exhibit A. A subsequent adjudication of constitutionality of the Scotland Neck Statute would not repair the damage done in the interim.

WHEREFORE, this Defendant prays:

1. That the statute establishing the Scotland Neck School District be declared constitutional and that this defendant be authorized to proceed, at the earliest feasible time, to carry out its duties pursuant to that statute and

2. That, pending the final determination in the highest Court of Appeals to which the case may be taken of the question of the constitutionality of the Scotland Neck Statute, this Court abstain from ordering or approving or permitting the changing or the disturbing of the present existing status with respect to the schools in Scotland Neck and the attendance of children of school age living in Scotland Neck or at this time attending the schools in Scotland Neck.

3. That, after the filing of such replies as one or more of the several parties hereto see fit to make to the allegations contained in the foregoing First Further Answer or after the time for replying to same has expired, this Defendant be afforded the opportunity to be heard on the following matters:

A. The prayers for temporary relief sought by the Plaintiff-Intervener insofar as said prayers affect this Defendant;

B. Any other prayer for temporary relief which may be set forth in replies to the First Further Answer hereinabove;

C. The prayer for abstention by the Court as sought in the First Further Answer hereinabove.

/s/ William T. Joyner
WILLIAM T. JOYNER
P. O. Box 109
Raleigh, North Carolina

/s/ Walton K. Joyner
WALTON K. JOYNER
P. O. Box 109
Raleigh, North Carolina

/s/ C. Kitchin Josey
C. KITCHIN JOSEY
Scotland Neck
North Carolina
Attorneys for Defendant
Scotland Neck City Board
of Education

EXHIBIT A

DOUBTS GROW ABOUT SCHOOL INTEGRATION

Washington, D. C.

A new word has entered the debate over segregation and integration in the nation's public schools: resegregation.

In dozens of cities, schools and school systems once almost entirely white are turning increasingly nonwhite. This trend, produced by the familiar exodus of whites to the suburbs and nonwhites to the inner cities, has been going on for more than 30 years.

Only now, however, is it becoming a matter of prime concern to Federal officials. A new Federal school survey shows that racial isolation exists in every section of the country and that its growth is most rapid in the big Northern cities. This fact is raising new doubts among many long-time integrationists about the wisdom of trying to enforce desegregation in the schools. Items:

Several years ago, the Cleveland Board of Education searched the city for a new high-school site that would permit optimum racial integration. They settled on a neighborhood of modest owner-occupied homes near the suburb of Shaker Heights that was 60 per cent white, 40 per cent black. But when John F. Kennedy High School opened in 1965, 95 per cent of its pupils were black. "There's no question the decision to open that school accelerated the departure of whites," says Mrs. Conella Coulter Brown, administrative assistant for the Cleveland schools.

Edmondson High School on the west side of Baltimore was 80 percent white when it opened in 1957. Today there are 25 whites out of its student population of 2,700. "This is a well-kept-up residential area," says assistant principal Margery W. Harriss. "But once the school turned half-black, it turned rapidly almost 100 per cent black. The whites just moved out or took their children elsewhere."

Heavy Negro migration gave the District of Columbia's schools a Negro majority as early as 1950—four

years before the Supreme Court's watershed desegregation decision. In 1970, with the schools 95 per cent nonwhite, middle-class Negroes are fleeing—just across the boundary to neighboring Prince George's County, Maryland. The interesting thing about Prince George's enrollments this year, however, is not that the number of new blacks is up but that the number of new whites is down. No one knows exactly why, but one administrator muses: "The whites are moving to other Washington suburbs rather than to Prince George's."

In city after city in the North, the story is the same: Schools once all or nearly all white are drawing nonwhites in increasing numbers. When they reach a "tipping point" of 30 to 50 per cent, the whites move out and the schools become rapidly almost entirely nonwhite.

The extent of resegregation in the North has never been known with any certainty. But the Department of Health, Education, and Welfare (HEW) undertook a survey of the racial composition of 90 per cent of the school districts in the country during the 1968-1969 school years, and fed the returns into a high-speed computer. The results, released Jan. 4, portray a system of segregated education that knows no regional boundaries.

The survey shows, for example, that 5 out of 10 Negroes outside the South attend schools 95 to 100 per cent Negro, as opposed to 7 out of 10 Negroes in the 11 Southern states. Only 25 per cent of the Negroes outside the South attend majority-white schools, as contrasted with 18 per cent of the Negroes in Southern schools.

The survey shows too that 10 of the largest 20 city school systems in the country have majority Negro enrollments. In 16 of those systems, 60 per cent or more of the Negroes go to schools 95 to 100 per cent Negro—almost totally segregated.

A Stennis Challenge

Federal officials say they are deeply troubled by the extent of segregation the survey has uncovered. Sen. John Stennis, Mississippi Democrat, first previewed the

findings in a series of speeches in December, in which he challenged the Government to pursue desegregation in the North with the same vigor it is pursuing desegregation in the South. "If segregation is wrong in the public schools of the South," he argued, "it is wrong in the public schools of all other states."

Mr. Stennis made the point in arguing that the Government should ease up on its efforts to promote desegregation of schools. Leon E. Panetta, HEW's chief civil-rights officer, on the other hand, told Congress two months ago that the answer is not to make segregation legal in the South but to pass legislation making it illegal everywhere.

* * * netta reflected on the emerging pattern of resegregation in America and said: "Nobody really is considering what the answers to this situation are, and whether there aren't new injustices resulting from rectifying gross past injustices."

Ever since the Supreme Court held in 1954 that state-supported racial segregation was a denial of equal educational opportunity, the courts have been trying to undo the vestiges of the South's dual school system. With the passage of the 1964 Civil Rights Act, the Justice Department and HEW joined the battle to force recalcitrant school districts to adopt plans of racial balance.

Turning Attention North

In the past two years, both agencies have begun turning their attention to school discrimination outside the South, but only a handful of non-Southern districts have been cited for discrimination. This is because racial separation in Northern districts is generally regarded as *de facto* segregation, a result of housing patterns, rather than—as in the South—*de jure*, the result of official law or policy.

Last week, in the second of seven suits filed by the Justice Department in non-Southern districts, a Federal district court ordered the Pasadena, Calif., school board to put into effect by next September a desegregation plan that would give none of its schools a nonwhite majority. The district—30 per cent black, 58 per cent white, and

12 per cent other minorities—was accused of discriminating in the making of school district boundaries, teacher assignments and in other ways.

So far, few courts have held that the existence of *de facto* segregation itself is proof of discrimination, and the Supreme Court has not ruled on the issue. Yet the disparity continues between what is forbidden in the South and what is tolerated in the North, and the pattern of Northern separation begins to look more like its Southern counterpart.

For example, 17 Florida school systems, with two-thirds of the state's pupil population, are currently under Federal court orders to desegregate, two of them by Feb. 1 under a Supreme Court order. Seventy-two per cent of the Negro students in Florida attend schools in which Negroes constitute 95 to 100 per cent of the enrollment.

Yet 72 per cent of the Negro students in Illinois, according to the HEW survey, also attend schools with 95 to 100 per cent Negro enrollment, and there are no court orders compelling desegregation in Illinois. In fact, it can be argued there is more segregation in Illinois than in Florida. Theoretically it should be easier for Illinois, where Negroes make up 18 per cent of the student population, to place Negroes in majority-white schools than for Florida, where they make up 23.2 per cent. Yet there are proportionately more Negroes in majority-white schools in Florida (23.2 per cent) than in Illinois (13.6).

It seems likely that the courts will not for long be able to postpone consideration of such discrepancies in the application of national law. For a few Southern school districts, which have desegregated in accordance with the law, now find themselves victims of resegregation, ostensibly as a result of shifting housing patterns. One such district is Atlanta, where integration began eight years ago as the result of court suits initiated by the NAACP and other civil-rights groups.

Two Escape Routes

Since that time, 25 schools that were formerly all-white have turned predominantly black, as white par-

ents have followed one of the two legal escape routes open to them: a private school or a home in the suburbs. Today, the school system, predominantly white before integration, is two-thirds black, but adjoining, suburban school systems are 80 to 95 per cent white.

If this appears to be *de facto* segregation Northern-style, Atlanta—because it had a dual school system until recently—is nonetheless still subject to a Supreme Court order of Jan. 14, requiring desegregation of schools in Georgia and four other Southern states by Feb. 1.

Southerners have long been grumbling about what they wryly refer to as "this dual system of justice" (one for the North, another for the South), and they are beginning to organize to combat it. Last week, Florida's Gov. Claude Kirk appealed to the U.S. Supreme Court to set national desegregation standards that would affect all 50 states. And the attorneys general of Louisiana, Mississippi, and Alabama announced a joint legal effort designed to ensure that "the same rules for administration of public schools" imposed by the Federal courts in the South "apply to all other states."

The forces attempting to undermine enforced desegregation will get an unexpected assist next month with the publication of a book by Harper & Row, which challenges the Constitutional basis of court-ordered integration.

Entitled *The Supreme Court and the Idea of Progress*, and written by Yale University's Alexander M. Bickel, a Constitutional law authority of impeccable credentials among civil-rights advocates, the book is an expanded version of the Holmes Lectures, which Professor Bickel delivered at Harvard Law School in October.

In a chapter on the Supreme Court's desegregation rulings, Professor Bickel argues the Court, beginning with the history-making *Brown* v. *Board of Education* decision in 1954, should have contented itself with finding that legally enforced school segregation is unconstitutional.

Dubious Sociology?

In going beyond that principle to argue that separate educational facilities are inherently unequal, says Pro-

fessor Bickel, the Court based its reasoning on dubious sociology and a parochial view of American education, which holds that education's main duty is to promote assimilation. As a result, says Mr. Bickel:

"In most of the larger urban areas, demographic conditions are such that no policy that a court can order, and a school board, a city, or even a state has the capability to put into effect, will in fact result in the foreseeable future in racially balanced public schools."

Enforced desegregation, in other words, will merely force more whites into the suburbs or into private schools, leaving, Professor Bickel argues, only the poor—black and white—in the city schools.

It should be noted that there are many successful experiments in racial desegregation of schools. Several dozen Northern school districts, according to HEW estimates, have achieved full and voluntary integration by such techniques as altering attendance zones, busing, and pairing of students to achieve racial balance. In White Plains, N.Y., for example, a quota system introduced in 1964 has not resulted in an exodus of whites. No school may have more than a 30 per cent or less than a 10 per cent enrollment of minority-group students.

But such plans, officials say, generally work in small or medium-size cities (White Plains' population: 65,000), where the population is stable and the blacks are in the minority. They often require, in addition, a rare degree of local leadership.

Central cities, on the other hand, experienced an increase of 2,400,000 in the Negro population between 1960 and 1968, and a decline of 2,100,000 in the white population, according to Census Bureau figures. While the figures are open to various interpretations, they nonetheless make it clear that great numbers of whites do not consider integration a primary social goal.

Changing Nonwhite Attitude

Integration seems to be losing its attraction among nonwhites as well, at least as a short-run goal. Civil-rights leader James Farmer, now a high Nixon Admin-

istration official, said recently he has stopped trying to "sell Negro audiences on integration." The reason: "They don't agree on it any more."

In Philadelphia, where 60 per cent of the Negro school children attend schools that are 95 to 100 per cent Negro, officials report waning enthusiasm for busing black students to white schools to relieve overcrowding. "The people want to go to their neighborhood school," says school spokesman Robert S. Finarelli. "It's the state, not local people, pressing us for a desegregation plan."

The educational argument for integrated schools is based on the premise that minority-group children make their greatest achievement gains in an integrated environment. Numerous studies over the years, including the mammoth Coleman Report, issued by the U.S. Office of Education in 1966, have documented this thesis.

Conversely, there is relatively little information to indicate that spending more money in black schools in the slums does much good. "Most experiments in improving ghetto education have, quite frankly, been failures," says a U.S. Office of Education official.

That is why Government "integrationists" are so disturbed by the new findings of racial resegregation in the public schools. Leon Panetta, HEW's 31-year-old civil-rights chief, throws up his hands and shrugs. "We need a congressional examination of this whole question of the results of integration," he says. "In the meantime, we do what the law says we should do."

—MARK R. ARNOLD

RACIAL ISOLATION IN PUBLIC SCHOOLS

(1968-69 School Year)

City	Negro % of total students	% Negroes in majority white schools	% Negroes in 95-100% Negro schools
D.C.	93.5	0.9	89.2
CHICAGO	52.9	3.2	85.4
LOS ANGELES	22.6	4.7	78.5
NEW YORK CITY	31.5	19.7	43.9
HOUSTON	33.3	5.3	86.4
BALTIMORE	65.1	7.7	75.8
DALLAS	30.8	2.1	82.2
PHILADELPHIA	58.8	9.6	59.8
INDIANAPOLIS	33.7	22.4	52.9
BOSTON	27.1	23.3	33.6
PITTSBURGH	39.2	21.3	42.7
KANSAS CITY, MO.	46.8	14.0	67.3
BUFFALO	36.6	27.0	61.1
OKLAHOMA CITY	21.8	12.5	79.7
ST. LOUIS	63.5	7.1	86.2
ATLANTA	61.7	5.4	90.0
ORLEANS PAR., LA. (NEW ORLEANS)	67.1	8.8	81.2
NEWARK	72.5	2.1	75.8
GARY, IND.	61.6	3.1	80.8
ROCHESTER, N.Y.	28.9	45.6	12.1
FRESNO, CALIF.	9.0	15.8	72.5
OMAHA, NEB.	18.1	20.5	38.3

(Source: Department of Health, Education, and Welfare)

[Caption Omitted]

ANSWER TO COMPLAINT IN INTERVENTION BY BOARD OF COUNTY COMMISSIONERS OF HALIFAX COUNTY

FIRST DEFENSE AND PLEA OF FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

1. That no claim upon which relief can be granted is stated against this defendant in respect to:

(1) The allegations in respect to the constitutionality of Chapters 31 and 628 of the 1969 Session Laws of North Carolina;

(2) The allegations in respect to the alleged transfer of the Scotland Neck Junior High School property or;

(3) The allegations of Pattie Black Cotton, Edward M. Francis and other black teachers similarly situated;

The said allegations constituting these causes of action being directed at the alleged acts of the Halifax County Board of Education and the only relief sought, except a ruling on the constitutionality of said Chapters 31 and 628, being against the said Halifax County Board of Education.

SECOND DEFENSE

1. That the allegations of paragraphs one, two and three of the Complaint in Intervention are denied.

2. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs four, five, six and seven of the Complaint in Intervention and, therefore, denies same.

3. The allegations of paragraph eight of the Complaint in Intervention are denied; except that it is admitted that the Halifax County Board of Education is organized under the laws of the State of North Carolina and exer-

cises such powers and duties as are granted by the laws of said state; that the Scotland Neck Administrative Unit and the Littleton-Lake Gaston School District were created by Acts of the legislature of the State of North Carolina and that W. Henry Overman is Superintendent of Schools of Halifax County.

4. The allegations of paragraph nine are denied; except that it is admitted that the Board of Commissioners of Halifax County exercise such powers and duties as are provided by law.

5. The allegations of paragraph ten are denied; except that it is admitted that the defendant Scotland Neck City Board of Education is a public body corporate.

6. The allegations of paragraph eleven are denied; except that it is admitted that the defendant Littleton-Lake Gaston School District is a public body corporate.

7. The allegations of paragraph twelve of the Complaint are denied; except that it is admitted that the North Carolina State Board of Education is an agency of the State of North Carolina and exercises such powers and duties as provided by the Constitution and laws of the State of North Carolina.

8. The allegations of paragraph thirteen of the Complaint are denied; except that it is admitted that the defendant A. Craig Phillips is the duly elected Superintendent of Public Instruction and that he exercises such powers and duties as provided by the Constitution and laws of the State of North Carolina.

9. That the allegations of paragraph fourteen of the Complaint in Intervention are denied.

10. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs fifteen and sixteen of the Complaint in Intervention and, therefore, denies same.

11. That the allegations of paragraphs seventeen and eighteen of the Complaint in Intervention are denied.

12. That the allegations of paragraph nineteen of the Complaint in Intervention are denied; except that it is admitted that the General Assembly of 1969 established the Warrenton City Administrative Unit, the Littleton-

Lake Gaston School District, and the Scotland Neck Administrative Unit, as appears in the Acts establishing same, and that these enactments were opposed in the General Assembly by the Eastern Council of Community Affairs.

13. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs twenty, twenty-one, twenty-two, twenty-three and twenty-four of the Complaint in Intervention and, therefore, denies same; except that it is admitted that the enactments of the Legislature of the State of North Carolina are of record and speak for themselves.

14. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine and thirty of the Complaint in Intervention and, therefore, denies same.

15. That the allegations of paragraphs thirty-one, thirty-two, thirty-three, thirty-four and thirty-five of the Complaint in Intervention are denied.

16. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs thirty-six, thirty-seven and thirty-eight of the Complaint in Intervention and, therefore, denies same.

17. That the allegations of paragraphs thirty-nine and forty of the Complaint in Intervention are denied.

18. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph forty-one of the Compaint in Intervention and, therefore, denies same.

19. That the allegations of paragraph forty-two of the Complaint in Intervention are denied.

20. That this defendant has not knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph forty-three of the Complaint in Intervention and, therefore, denies same.

21. That the allegations of paragraph forty-four of the Complaint in Intervention are denied.

WHEREFORE, defendant Board of County Commissioners of Halifax County prays:

1. That the said cause of action alleging Chapters 31 and 628 of the 1969 Session laws of North Carolina are void and unconstitutional, and the said cause of action alleging the wrongful transfer of the Scotland Neck Junior High School property, and the said cause of action alleging discrimination against Pattie Black Cotton and other black teachers similarly situated, all three, be dismissed as against the defendant Board of County Commissioners of Halifax County for the reason that no claim upon which relief can be granted is stated against this defendant in any of the above three causes of action.

2. That the First Defense be treated as a complete bar in respect to any relief as against this defendant and in the event the said First Defense is not sustained that the Second Defense be treated as a complete defense on behalf of this defendant and that this action be dismissed as against this defendant, Board of County Commissioners of Halifax County.

3. That this defendant have and recover its costs and have such other and further relief as the Court deems to be proper and just.

/s/ Ron B. Parker
RON B. PARKER
Parker & Dickens
Attorneys at Law
102 S. Railroad Street
Infield, North Carolina 27823
Telephone No. 445-3652
Attorney for Board of County Commissioners of Halifax County

NORTH CAROLINA

HALIFAX COUNTY

VERIFICATION

Harry A. Branch, being duly sworn says:

That he is Chairman of the Board of County Commissioners of Halifax County; that he verifies this Answer; that he has read the foregoing Answer; that the same is true to his own knowledge except as to matters therein stated upon information and belief and as to such matters he believes it to be true.

/s/ Harry A. Branch
HARRY A. BRANCH
Chairman of the Board of
County Commissioners of
Halifax County

Subscribed and sworn to before me on this the 16th day of February, 1970.

/s/ Nelda C. Herbert
Notary Public
My Commission Expires: Jan. 4, 1971

[Caption Omitted]

ANSWER OF DEFENDANT, HALIFAX COUNTY BOARD OF EDUCATION TO THE COMPLAINT IN INTERVENTION AND AN AFFIRMATIVE PLEA THAT THE COURT DELAY FURTHER AND FINAL DETERMINATION OF ALL OTHER ISSUES RAISED HEREIN PENDING FINAL DETERMINATION OF THE CONSTITUTIONALITY OF THE ACT CREATING THE SCOTLAND NECK CITY SCHOOL ADMINISTRATIVE UNIT AND ALSO DELAY ANY FURTHER ORDER FOR IMPLEMENTATION OF ANY SCHOOL DESEGREGATION PLAN UNTIL JUNE 1, 1970.

FIRST COUNT

1. To the Intervener-Plaintiffs adoption of the allegations of the original complaint in this cause, this defendant repeats its pleadings in defense thereto including its Answer and Further Answer and Prayer heretofore filed.

2. This defendant denies that Intervener-Plaintiffs have invoked properly the jurisdiction of this court and therefore denies the allegations of this paragraph.

3. It is admitted that this is a proceeding seeking to restrain this defendant as is alleged in sub-sections 1-6 of Paragraph 3, but the allegations of each paragraph are denied.

With respect to the proceeding for a Declaratory Judgment in sub-paragraph a, b, c, d, and e of Paragraph 3, this defendant was in no way responsible for the enactment of the acts of the General Assembly referred to in sub-paragraphs a, b, and c, and denies the allegations of sub-paragraphs d and e.

4. It is admitted that the plaintiff, Pattie Black Cotton, is a black public school teacher, a citizen of the United States and the State of North Carolina and has been and is still a teacher with this defendant, but denies the other allegations of said paragraph.

5. It is admitted that the plaintiff, Edward M. Francis, is a negro and a citizen of the United States and

the State of North Carolina and a former teacher employed by this defendant, but the other allegations of this paragraph are denied.

6. This defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 and therefore denies the same.

7. This defendant does not have knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 and therefore denies the same.

8. The allegations of Paragraph 8 are admitted.

9. The allegations of Paragraph 9 are admitted.

10. It is admitted that the defendant, Scotland Neck City Board of Education, is a public body corporate, but this defendant is without knowledge or information sufficient to form a belief as to the truth of the other allegations and therefore denies the same.

11. It is admitted that the Littleton-Lake Gaston School District is a public body corporate, but this defendant does not have knowledge or information sufficient to form a belief as to the truth of the other allegations of this paragraph and therefore denies the same.

12. It is admitted that the North Carolina State Board of Education is an agency of the State and exercises such powers and duties as provided by the Constitution and laws of the State of North Carolina; that except as herein admitted Paragraph 12 is denied.

13. It is admitted that the Defendant, A. Craig Phillips, is the duly elected Superintendent of Public Instruction, and that he exercises such powers and duties as provided by the Constitution and laws of the State of North Carolina; that except as admitted the allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are denied.

15. It is admitted that the plaintiff, Edward N. Francis, was teaching and that his teaching contract has been terminated, but the other allegations of this paragraph are denied.

16. It is admitted that Halifax County Board of Education is currently operating the Scotland Neck Schools, the other allegations of this paragraph are denied.

17. The allegations of Paragraph 17 are denied.

18. The allegations of Paragraph 18 are denied.

19. It is admitted that the 1969 Session of the North Carolina General Assembly enacted laws creating three new school administrative units, but the other allegations of Paragraph 19 are denied.

20. The allegations of Paragraph 20 are admitted.

21. The allegations of Paragraph 21 are not denied.

22. The allegations of Paragraph 22 are not denied.

23. The allegations of Paragraph 23 are not denied.

24. The allegations of Paragraph 24 are admitted.

25. The allegations of Paragraph 25 are denied.

26. This defendant has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 26 and therefore denies the same.

27. This defendant has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 27 and therefore denies the same.

28. This defendant has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 28 and therefore denies the same.

29. The allegations of Paragraph 29, as therein alleged, are denied.

30. The allegations of Paragraph 30 are denied.

31. The allegations of Paragraph 31 are denied.

32. The allegations of Paragraph 32 are denied.

SECOND COUNT

33. This defendant here adopts and again alleges its answers to Paragraphs 1, 2, 3, 4, 8, 12, 13 and 14 of the First Count in the Complaint and hereby incorporates the same in this paragraph.

34. The allegations of Paragraph 34 are denied.

35. The allegations of Paragraph 35 are not denied.

36. This defendant has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 36 and therefore denies the same.

37. This defendant has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 37 and therefore denies the same.

38. The allegations of Paragraph 38 are admitted.

39. It is admitted that a hearing was held on June 12, 1969, and that Mrs. Elizabeth Hocksday appeared as a witness, but the other allegations of Paragraph 39 are denied.

40. The allegations of Paragraph 40 are denied.

41. The allegations of Paragraph 41 are admitted.

42. The allegations of Paragraph 42 are denied.

43. The allegations of Paragraph 43 are denied.

44. The allegations of Paragraph 44 are denied.

FIRST FURTHER ANSWER AND AN AFFIRMATIVE PLEA THAT THE COURT DELAY FURTHER AND FINAL DETERMINATION OF ALL OTHER ISSUES RAISED HEREIN PENDING FINAL DETERMINATION OF THE CONSTITUTIONALITY OF THE ACT CREATING THE SCOTLAND NECK CITY SCHOOL ADMINISTRATIVE UNIT AND ALSO DELAY ANY FURTHER ORDER FOR IMPLEMENTATION OF ANY SCHOOL DESEGREGATION PLAN UNTIL JUNE 1, 1970.

For a First Further Answer and an affirmative plea that the court delay further and final determination of all other issues raised herein pending final determination of the constitutionality of the act creating the Scotland Neck City School Administrative Unit and also delay any further order for implementation of any school desegregation plan until June 1, 1970, this defendant, alleges and says:

1. That there is a misjoinder of causes of action sought by the Intervener-Plaintiffs against this defendant in that the issue involving the constitutionality of the Legislative Act creating the Scotland Neck City School Administrative Unit is entirely separate and unrelated to the hiring and firing of teachers and to the CODE OF ETHICS OF THE EDUCATION PROFESSION as adopted by the National Education Associations and the Associations of the State of North Carolina.

2. The Intervener-Plaintiffs are not entitled to relief in this court as they have failed to exhaust their administrative remedies as set forth by rules, regulations and

Public Laws with respect to the employment of teachers and their administrative remedies for the alleged violations of the CODE OF ETHICS of the Education Association as adopted by the National Education Associations and the Associations of the State of North Carolina.

3. That this defendant cannot be held accountable for any violation of the CODE OF ETHICS among teachers, this being a matter solely between the Associations and the teacher alleged to have violated the Code or any part thereof.

4. That the Public Laws of North Carolina prescribe procedures to be followed for the firing or removal of teachers, which administrative procedures have not been followed or exhausted, though they would provide adequate relief.

5. That the Public Laws of North Carolina provide that State and County school officials shall decide the curriculum to be offered in each school, and this authority has not been supplemented or supplanted by the federal courts.

6. That the alleged criminal action against Pattie Black Cotton is still pending in the Superior Court of Halifax County and has not been finally adjudicated or appealed from. That said criminal action is a criminal matter and cannot be properly joined in this action.

7. That the question of the re-instatement of Edward M. Francis cannot be finally determined until the constitiutionality of the Scotland Neck City School Administrative Act is finally adjudicated. That the final determination of the constitutionality of that Act, plus the rapidly shifting population in the public schools of Halifax County, may increase or decrease, the demand for teachers and require a re-assignment of teachers, or non-renewal of a teacher's contract, depending on the number of students and the curriculum needs at that time. Thus it is now impossible to finally determine the employment of Edward M. Francis and any other teachers that might be affected.

8. That since the filing of the motion to intervene by the Intervener-Plaintiffs, and the Court's order allowing intervention, drastic changes have occurred, and will con-

tinue to occur in the immediate future, in the policies, guidelines, Rules and Regulations in the Justice Department; in the Department of Health, Education and Welfare; in the Congress; and, perhaps in the Supreme Court rulings; all of which are evident in the actions of Congress, statements of the Attorney General, statements of the President of the United States and the Vice President of the United States. That these changes have created and will continue to create hope for the preservation, improvement and re-establishment of the Public Schools, and particularly neighborhood schools, throughout the nation, and particularly in Halifax County.

That there is nothing in this case, from any of the parties, showing that transfers in mid-term are educationally sound, necessary or helpful, but there is voluminous evidence that integration would decrease, and irreparable damage done to all children if transfers are made in mid-term. That the parents of school children of Halifax County, through their new found hope and belief, that a solution acceptable to all races will result, from the joint efforts of the Congress, the President, the Vice President, the courts and the members of the President's Cabinet and the new Commission recently appointed by the President of the United States and chaired by the Vice President, would now be more adamant if changes were made in mid-year.

That the delay of the date of implementation until June 1, 1970, would allow a culmination and crystalization of the efforts of the various branches of government above set forth, and allow final and definitive decisions of the federal courts, thus allowing this court and this defendant to formulate new and final plans that would be in the best interest of all parties to this suit, and particularly to all the school children of Halifax County.

WHEREFORE, this defendant prays:

1. That the court grant the prayers of this defendant as set forth in its original Answer which prayers are numbered 1 through 5 and incorporated herein by reference.

2. That the relief sought by the Intervener-Plaintiffs be denied, and their each and every claim be dismissed as to this defendant.

3. That the court delay until June 1, 1970, or until later if the Court desires, any date of implementation for any plan of integration now before the court, or later submitted to the court, or devised by the court.

/s/ W. Lunsford Crew
W. LUNSFORD CREW,
Attorney for the Defendant,
Halifax County Board of
Education

[Caption Omitted]

ORDER

LARKINS, District Judge:

This cause coming on before the Court upon Plaintiff's second claim for relief, wherein Plaintiff seeks to require the Halifax County Board of Education to desegregate its school system on a basis other than freedom of choice, said issue in the second of two claims in the instant action having been severed by the Court; said cause is now before the Court separately for the determination of the Court.

SUMMARY

Pursuant to the oral directive of the Court upon a hearing of the issues raised by the first and second claims in the instant action on August 21-23, 1969, the Defendant Halifax County Board of Education filed, on October 15, 1969, a proposed plan for the desegregation of its schools on a basis other than "freedom of choice".

At a pre-trial conference held by this Court in chambers at Trenton, North Carolina, on November 3, 1969, counsel for Plaintiff stated orally their objections to Defendant's proposed plan; said objections being: (1) that the plan still used freedom of choice in the assignment of pupils; (2) that the minority to majority transfer system was not acceptable; (3) that the faculties were not desegregated; and (4) that the plan failed to provide a terminal date.

Thereupon, the Plaintiff moved that the Court order the Defendant to adopt and implement immediately the "Interim Plan" prepared by the North Carolina Department of Instruction.

The Court, taking the motion under advisement, directed that the Plaintiff's objections to the plan proposed by Defendant and the motion be submitted in writing within three or four days and directed that the Halifax County Board of Education inform the Court within thirty days why the "Interim Plan" could not be implemented at mid-year.

On November 21, 1969, the Court received a nine page report and summary of the reasons why the "Interim Plan" could or should not be implemented at mid-year.

On November 24, 1969, this Court entered an Order directing that the Halifax County Board of Education submit on or before December 15, 1969, a plan to terminate the present dual school system being operated in the county at once.

A hearing was scheduled by the Court to be held in the United States Courtroom in Raleigh on Thursday, December 18, 1969, at 9:30 A.M.

The Court amended the Order on December 4, 1969, to require of the Defendant that it submit with its plan on or before December 15, projected statistics for student bodies and faculty by race and school, and a map depicting any proposed zones or attendance areas for each school.

On December 15, 1969, this Court received from W. Lunsford Crew Esquire, counsel for the Halifax County Board of Education, a letter with enclosures including: copies of the original Interim Plan; copies of an amended Interim Plan; a map showing projected statistics for student bodies by race and proposed attendance zones; copies of projected statistics for faculty by race; and a resolution by the Halifax Board whereby they adopted the Interim Plan and requested that the State Division of School Planning make any modifications it might deem necessary.

The changes proposed in the amended Interim Plan do not relate to the four suggested attendance zones set up in the original "Interim Plan" or any other major aspects of said plan. Rather the amended portions relate only to grade origin and space usage in the individual schools.

Mr. Crew's letter indicated that the Board had decided that they were not able to come up with a plan that would be superior to the plan proposed by the State Division of School Planning; and that this was the reason for its adoption by resolution thereof.

However, counsel for Defendant Halifax County Board did again request that the effective date of the plan be

delayed until the end of the current school year—that date being on or about June 1, 1970.

The above-mentioned letter was read into the Record at a Hearing of the matter by the Court on December 19, 1969 in Raleigh, North Carolina and counsel for the Plaintiff were apprised of the contents thereof.

Defendant's reasons for asking delay of implementation included the alleged "irreparable damage to the education of the children" which would result from an earlier enforcement.

At the Hearing on December 19, 1969, Mr. Charles K. Howard, counsel for Plaintiff, again requested that the Court order Defendant to implement this revised Interim Plan at mid-year and in no event later than January 31, 1970.

Upon a full Hearing of the issues concerning the proposed desegregation of the Halifax County Schools, the Court having heard counsel for the Government and counsel for the Defendant, Halifax County Board of Education, adopted the proposed amended Interim Plan of the Halifax County Board of Education. A determination of the effective date of implementation of the plan was reserved by the Court pending determination of other matters involved in this action.

FINDINGS OF FACT

It appears to the Court that an implementation of the proposed interim plan of the Defendant Halifax County Board of Education at mid-year or at any time before the completion of the school year would have at least endangered if not in actuality irreparably damaged the quality of education received during the school year by all of the children of the County; be they Negro, American Indian or Caucasian. And the Court is mindful that these individuals are its most important consideration.

Therefore, it appears to the Court, that the request of the Plaintiff, taken as a Motion, should be denied, and that the request of Defendant Halifax County Board of Education, taken as a Motion, that the effective date of implementation be delayed until the end of the school

year—that date being on or about June 1, 1970, should be allowed.

ORDER

NOW THEREFORE, in accordance with the foregoing, it is:

ORDERED, that the Motion of Defendant be and the same is hereby, Allowed; and that the "Proposed Interim Plan" of the Defendant Halifax County Board of Education as prepared by the North Carolina Department of Instruction, subject to the secondary amendments of the Board included in their proposal to this Court, the same having been adopted by the Court be Implemented by the Board no later than June 1, 1970.

FURTHER ORDERED, that the Motion of Plaintiff for immediate implementation at mid-year be, and the same is hereby Denied; and,

FURTHER ORDERED, that the Clerk shall serve copies of this ORDER upon all counsel of record.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Trenton, North Carolina
May 18th, 1970

[Caption Omitted]

OPINION AND ORDER

LARKINS, District Judge

SUMMARY

The subject of this opinion and one of the primary issues in this case is the constitutionality of Chapter 31 of the North Carolina Session Laws of 1969,[1] a local act which carved out of the Halifax County, North Carolina, school system a separate administrative unit for the operation of the public schools in Scotland Neck, a town with a population of approximately 3000 located in the southeastern section of Halifax County. The plaintiff contends that the act is unconstitutional and that its implementation should be permanently enjoined because the act is inconsistent with the State's duty under the Equal Protection Clause of the Fourteenth Amendment to dismantle its dual school system. Defendants Scotland Neck City Board of Education and the State of North Carolina contend that the act is not violative of the Fourteenth Amendment to the United States Constitution as interpreted by the Supreme Court of the United States.

This controversy came before the court upon the filing of plaintiff's complaint on June 16, 1969, attacking the

[1] Plaintiff, in its complaint, also challenged the constitutionality of defendant Halifax County Board of Education's pupil assignment plan on the grounds that the plan failed to establish a unitary non-racial school system as required by the mandate of the United States Supreme Court. Furthermore, the status of the Haliwa Indians in the new arrangement of school systems was raised by a complaint in intervention permitted to be filed by this Court on October 30, 1969, on behalf of the several hundred Haliwa Indians residing in Halifax and Warren Counties. Another third-party complaint in intervention, filed as of January 9, 1970, by order of this Court by two black public school teachers in Halifax County and a number of minor school children residing in the Scotland Neck City School System and the Littleton-Lake Gaston School System, made certain allegations about the treatment of black students and faculty members by the Halifax County Board of Education. None of the questions raised by these additional allegations have yet been ruled on by the Court.

constitutionality of Chapter 31 of the Session Laws of 1969 and seeking to require the Halifax County Board of Education to desegregate its school system. Following a three-day hearing on plaintiff's motion for a preliminary injunction in Raleigh, North Carolina, this court, on August 25, 1969, entered a Memorandum Opinion and Order enjoining the Scotland Neck City Board of Education additional defendants and its officers and agents, etc., from taking any further action pursuant to the provisions of Chapter 31 pending a final determination on the merits of the constitutional questions raised by plaintiff's challenge of the act.

On October 30, 1969, this Court allowed certain named Haliwa Indians to intervene and on November 3, 1969, this court entered an Order allowing Robert B. Morgan, Attorney General of North Carolian, to intervene as a defendant on behalf of the State of North Carolina.

On January 9, 1970 the court allowed the motion for leave to intervene on behalf of Pattie Black Cotton, Edward M. Francis and others, and ordered additional defendants named therein to plead within 20 days. This court scheduled a hearing on the merits of the constitutionality of Chapter 31 and similar questions in the case of *Turner et al.* v. *Warren County Board of Education et al.*, No. 1482, Raleigh Division, for Wednesday, December 17, 1969. A trial on the merits in this case and the *Turner et al* v. *Warren County Board of Education et al* case was conducted by this court on December 17 and 18, 1969. Following the trial, this court carefully considered the transcripts, exhibits, briefs, depositions and arguments of counsel; and, now being fully advised in the premises, the court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

Scotland Neck, a small town with a present population of approximately 3000, is located in the southeastern corner of Halifax County, a rural and agricultural region of North Carolina which has a predominantly black population. The population of the town itself is approximately 50% white and 50% black.

The schools within the corporate limits of Scotland Neck were operated as a city administrative unit until 1936 at which time they became part of the Halifax County unit pursuant to a procedure authorized by the General Statutes of North Carolina.[2] The construction of the elementary school in 1903 and the high school in 1923 was financed entirely by local funds.

Following the consolidation with Halifax County in 1936, the schools of Scotland Neck were operated as part of a dual school system, completely segregated, until 1965, at which time the Halifax County Board of Education adopted a freedom-of-choice plan for the assignment of pupils. The county maintained the freedom-of-choice assignment plan for the next three years during which a few black students attended formerly all-white schools and no white students attended formerly all-black schools. For example, during the 1967-68 school year, all of the white students and 97% of the black students attended schools previously maintained for their own races. In that year, 10 of the 450 teachers in 18 schools were assigned across racial lines. About 35 black students attended the Scotland Neck schools during the 1967-68 school year.

On July 27, 1968, the United States Department of Justice, pursuant to its authority under Title IV of the Civil Rights Act of 1964, sent the Halifax County Board of Education a "notice letter" which advised that Halifax County had failed to disestablish its dual school system and that additional steps should be taken for the Board to be in compliance with the United States Supreme Court's decision in *Green* v. *School Board of New Kent County*, 391 U. S. 430, 88 S. Ct. 1689, 20 L. Ed. 2d 716 (1968). Negotiations ensued between the attorneys for the Justice Department and the Halifax County School Board, and a tentative agreement was reached whereby the Board would disestablish the dual school system by the commencement of the 1969-70 school year and would implement certain intermediate steps at the beginning

[2] Formerly Article 18, Chapter 136, Public Laws 1923, now North Carolina General Statutes §§ 115-74 through 115-78.

of the 1968-69 school year. The Justice Department agreed to withhold suit in consideration of the promises made by the Board.

The negotiations and the Board's promise to desegregate its schools were well-publicized in the local press. The newspaper in Scotland Neck reported on August 9, 1968, that the county had been ordered to end its dual school system and that there were several forms of grade organization, such as zoning or pairing of schools, which would be more effective than the freedom-of-choice plan as a means of converting to a unitary non-racial school system. The portion of the agreement which affected the Scotland Neck schools, that is, the proposed combining of the seventh and eighth grades of the previously all-black Brawley school, just outside the corporate limits of Scotland Neck, with the all-white junior high, was also publicized in the Scotland Neck newspaper on August 16, 1968.

On or about July 1, 1968, in anticipation of their obligation to comply with the *Green* decision, the Halifax County Board of Education asked the North Carolina Department of Public Instruction to conduct a school survey to determine the steps necessary for the Board to meet its desegregation obligations and to recommend "the most effective organizational patterns for the county schools in order to insure the best education possible for the children." The survey, prepared in response to the request, was completed in December 1968. It recommended as an Interim Plan a combination of geographic zoning with grade reorganizations at some schools, including the pairing of the predominantly white Scotland Neck school and the all-black Brawley school with respect to certain grades. The Long Range plan suggested the construction of two new consolidated high schools to be financed by a proposed four million dollar bond issue. The survey also recommended that the county schools be consolidated with the schools in the city units of Roanoke Rapids and Weldon (two city administrative units also located within Halifax County). The Halifax County Board of Education subsequently declined to implement the plan which would have resulted in a majority of

black students in 17 of the 18 schools in the Halifax County system.[3]

The legislative bill proposing the creation of a separate administrative unit for the schools of Scotland Neck, according to its proponents, was designed in response to Scotland Neck residents' dissatisfaction with the way in which the Halifax County Board of Education had allowed the schools in Scotland Neck to deteriorate. Only one county-wide school bond issue had passed since 1936, and that was in 1957. At that time, the separate units in Roanoke Rapids and Weldon, on a per-pupil basis, received a total of $1,020,000, and Halifax County received $1,980,000 for capital outlay. None of the proceeds of the bond issue was spent on any schools within the corporate limits of Scotland Neck. If the Scotland Neck schools had been operated as a separate unit at that time, the unit would have received approximately $190,000 as its proportionate share of the bond proceeds.

In 1963, as a result of the latest state-wide bond issue, the Halifax County Board of Education received a total of $950,000 as its proportionate share of the proceeds. Mr. W. Henry Overman, Superintendent of the Halifax County schools, testified on deposition that none of this money had been spent or committed for any school within the corporate limits of Scotland Neck. (Overman's Deposition, pp. 184, 187). He also testified that Halifax County has gradually reduced the annual capital outlay tax for the schools from 63 cents per $100 valuation in 1957 to 27.5 cents per $100 valuation in the latest fiscal year. (Overman's Deposition, pp. 204-205).

In 1963, some of the leaders of Scotland Neck began to formulate plans for the creation of a separate administrative unit for the schools of Scotland Neck but were not able to crystallize these plans into a legislative bill prior to the expiration of the 1963 session of the North Carolina legislature. In 1965, the proponents of a separate

[3] Mr. Franklin P. Shields, a resident of Scotland Neck and chairman of the Scotland Neck City Board of Education, testified on deposition that he felt public opinion was against the Interim Plan because the people did not generally understand it, because they were generally opposed to change of any kind and because there were administrative difficulties in implementing the plan. (Shields' Deposition, pp. 18-23).

administrative unit did formulate a bill which would have provided for a separate unit for the administration of the schools in Scotland Neck and the four surrounding townships and would have provided for a supplemental tax of 25 cents on each $100 valuation throughout the new school district. The bill passed the House of Representatives but was defeated by the Senate, and it was the opinion of many in the Scotland Neck area that the defeat had been caused by the pressure of individuals residing in the townships outside the corporate limits of Scotland Neck.

In 1966, prompted by Mr. Henry Harrison, the only resident of Scotland Neck who was a member of the Halifax County Board of Education, a delegation consisting of Mr. Harrison, Mr. C. M. Moore, chairman of the Halifax County Board of Education, and Mr. Overman, Superintendent of the Halifax County schools, met with Dr. Pearce and some other staff members in the office of the North Carolina Superintendent of Public Instruction, the Division of School Planning, to get approval for the construction of a new high school and gymnasium in Scotland Neck to replace the old high school and the building being used as a combination auditorium and gymnasium. The new facilities would have been completely integrated. The Halifax County Board of Education supported the requested construction for Scotland Neck, but it was not approved by the Division of School Planning. (Overman's Deposition, pp. 178-180).

In 1968, the leaders of Scotland Neck again began to make plans for the creation of a separate administrative unit for the operation of the Scotland Neck schools. This time they planned to limit the boundaries of the new district to the town limits of Scotland Neck because of the feeling that it was the residents of the area outside Scotland Neck who had contributed to the defeat of the bill in 1965. In November, 1968, a group consisting of Frank Shields, the future chairman of the Scotland Neck City Board of Education, C. Kitchen Josey, Henry Harrison, and Thorne Gregory, the State representative from the area, visited the Tryon City unit, at that time the smallest school unit in the State with 823 students enrolled during the 1968-69 school year. At that time, 974

pupils were attending the schools within the corporate limits of Soctland Neck, and it was expected that, with transfers, any new administrative unit would have approximately the same number of pupils. It was felt that the Tryon City school was superior to any school in Halifax County, ranking 4th out of 160 units in the State in percentage of high school graduates attending college, 31st in pupil-teacher ratio and 12th in library books per pupil. The tax base of Tryon was approximately the same as the tax base of Scotland Neck, and the Tryon unit also had a supplementary tax of 50 cents per $100 valuation. The group received a copy of the Tryon budget and the curriculum and discussed with the Tryon officials the amount of money needed to operate the system. The trip was primarily to study the financial feasibility of creating the separate unit in Scotland Neck (Shields' Deposition, pp. 11-12, 59-60). The Scotland Neck leaders talked to no other professional educators (with the exception of State Superintendent Craig Phillips, who opposed the creation of a new unit) and conducted no other studies before proposing the introduction of a bill in the State legislature. (Henry Harrison's Deposition, pp. 57-9).

The actual bill creating the separate unit in Scotland Neck was drafted by the North Carolina Attorney General's office and was introduced as House Bill No. 22. After receiving the approval of the House Education Committee, the House Finance Committee and the Senate Finance Committee, the bill passed both houses by a substantial majority and was ratified as Chapter 31 of the North Carolina Session Laws on March 3, 1969.[4]

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[4] The actual title of Chapter 31 was:

AN ACT TO IMPROVE AND PROVIDE PUBLIC SCHOOLS OF A HIGHER STANDARD FOR THE RESIDENTS OF SCOTLAND NECK IN HALIFAX COUNTY. TO ESTABLISH THE SCOTLAND NECK CITY ADMINISTRATIVE UNIT, TO PROVIDE FOR THE ADMINISTRATION OF THE PUBLIC SCHOOLS IN SAID ADMINISTRATIVE UNIT, TO LEVY A SPECIAL TAX FOR THE PUBLIC SCHOOLS OF SAID ADMINISTRATIVE UNIT, ALL OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE VOTERS IN A REFERENDUM OR SPECIAL ELECTION.

Chapter 31 was a local act which authorized the creation of a separate public school administrative unit to be known as the Scotland Neck City Administrative Unit pending approval by a majority of the voters of Scotland Neck in a special election to be held on April 8, 1969. The act also provided that, upon such approval, a special tax of 50 cents per $100 valuation be levied on property within the corporate limits of Scotland Neck, the school properties within the new system and all funds allocated for the operation of such schools be transferred from the Halifax County Board of Education to the new system and that the Mayor and Board of Commissioners of Scotland Neck be required to appoint a Board of Education to administer the new system.

Chapter 31 became operative on April 8, 1969, upon the approval of a majority of the voters of Scotland Neck. Of the 1305 registered voters, in a large turnout, 813 voted for approval, and 332 voted against the act. (Ferd Harrison's Deposition, pp. 16-21).

There was a mixed reaction to the bill by educators and the people of Halifax County. Most of the white leaders of Scotland Neck supported the bill. Mr. W. Henry Overman, Superintendent of the Halifax County Schools, was opposed to the bill. (Henry Harrison's Deposition, p. 12). Negro groups, specifically, one led by a Reverend Deloatche, generally opposed the bill, (Deposition of Aubrey Powell, black member of the Scotland Neck school board, p. 18). Craig Phillips, State Superintendent of Public Instruction and the only professional educator to testify against the bill in the legislature, opposed it on the grounds that it was contrary to the trend of consolidating school districts, (Phillips' Deposition, p. 23), and because the number of students in the unit would be less than the number which he thought should be a minimum for the efficient operation of a school unit. (Phillips' Deposition, pp. 58, 59, 87-88).

Following approval of the act by the voters of Scotland Neck, the Mayor and Board of Commissioners of the Town appointed a five-member Board of Education. The Board then hired Franklin B. Bailey as superintendent, approximated the student enrollment for the 1969-70 school year and hired teachers. The Board also had a

preregistration for students, established a curriculum, set up an athletic program and assigned teachers. At a two-day instruction session for teachers which began on August 18, 1969, the Board announced that new teachers should report on August 26th and that the students should report for the commencement of the school year on August 28th. The supplementary tax of 50 cents per $100 valuation was levied by the Board of Commissioners and the Town Tax Collector was instructed to collect it. (Ferd Harrison's Deposition, p. 22).[5]

At a joint meeting of the Halifax County and Scotland Neck school boards in June, the Halifax Board agreed to lease the Junior High School building which was just outside the boundaries of the new district to the Scotland Neck Board for one dollar per year. The Halifax Board has a similar arrangement with the Roanoke Rapids school unit with respect to the Chaloner school. The lease from Halifax County to Scotland Neck was first discussed at a joint meeting of the two boards in April or May. (C. M. Moore's deposition, pp. 25-26). The lease arrangement amounted to extending the boundaries of the Scotland Neck unit to include approximately 10 additional acres, and the extension was approved by the State Board of Education on June 5, 1969. (Deposition of Franklin B. Bailey, Superintendent of the Scotland Neck system, pp. 19-20, Overman's Deposition, pp. 63-64).

One controversial aspect of this case is a transfer plan devised by the Scotland Neck Board of Education whereby students would be allowed to transfer into or out of the Scotland Neck unit to and from the Halifax County unit.[6] Under the plan a student could transfer into the

[5] The collection of the tax of course when this Court's preliminary injunction was entered against further implementation of Chapter 31. Much to the credit of the citizens of Scotland Neck, the supporters of the bill have financed this litigation by voluntary donations contributed in response to a solicitation in the *Scotland Neck Commonwealth*, the local newspaper, on October 10, 1960.

[6] Both the Roanoke Rapids and the Weldon city units have similar transfer plans, but, recently, restrictions have been placed on the number of students permitted to transfer from Halifax County into the two systems. (Overman's deposition, pp. 166-169).

system if he paid a fee which would compensate for the supplemental tax being paid by the parents of those students residing within the corporate limits of Scotland Neck. One hundred dollars would be charged for the first child in a family; $25 for the next two children; and the rest of the children in a family would be allowed to transfer in free of charge. As of August 25, 1969, 350 whites and 10 blacks had applied for transfer into the Scotland Neck system, and 44 black 11th and 12th graders had applied to transfer out of the Scotland Neck unit to attend the all-black Brawley High School.[7] Because of the controversial nature of the transfer plan and the charge that the plan permitted the Scotland Neck system to become a refuge for white students or "white island," counsel for the Scotland Neck Board of Education in its First Further Answer attached to an Amended Answer filed on September 3, 1969, said the Scotland Neck unit, if permitted to operate, would limit its student enrollment to those students residing within the corporate limits of Scotland Neck plus or minus any transfers that may be permitted by law and that would be in accordance with a plan to be approved by this Court.[8]

The result of the creation of a separate administrative unit for Scotland Neck was to carve out of the Halifax County unit a smaller school district. Without the transfer system, there are 399 whites and 296 blacks of school age within the corporate limits of Scotland Neck. This does not include the children who would have entered the first grade in the fall of 1969. The Scotland

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[7] Counsel for the Scotland Neck City Board of Education explained that the transfer of these black students in the 11th and 12th grades would be permitted only for the next two years in order to allow the students who had bought class rings, participated in athletics or had been chosen to leadership positions to remain in the all-black Brawley High School.

[8] If the school district itself were found to be constitutional, it would not be difficult to fashion an acceptable transfer plan by either limiting transfers in and out such that the black-white ratio would be the same after accepting transfers or by accepting an equal number of blacks and whites. The problem of finding enough black students who could afford the transfer fees might be met by charging the paying transferees a higher fee.

Neck system would have been an integrated system throughout with black students comprising 42.6% of the student enrollment. There is one black member on the five-member school board, and the faculty would also be integrated. The effectuation of the proposed transfer plan would have created approximately the same ratio of white to black students that prevailed during the 1968-69 school year. In 1968-69, 786 whites attended Scotland Neck schools. Of those, 399 resided within the corporate limits and 387 resided outside Scotland Neck. With the transfer system as originally adopted, the net effect would have been to have 759 white students (74%) in the schools of Scotland Neck and 262 black students (26%). The school facilities under the jurisdiction of the new unit will accommodate about 1,000 students.

The effect of the new unit on the other students in the county would be to leave the Halifax County unit with fewer whites in its school system. During the 1968-69 school year, the Halifax unit had a total of 10,655 students, of which 2,357 (22%) were white, 8,196 (77%) were black and 102 (1%) were Indian. The racial composition of the Halifax unit, with the originally proposed transfer system, would be as follows: white, 1,598 (16%); black, 8,186 (83%); Indian, 102 (1%). If the transfer system were not allowed or if a transfer system were devised which assured a larger number of black students in the Scotland Neck unit, the figures and percentages of course would change accordingly. Mr. Overman, Superintendent of the Halifax schools, testified on deposition that the Interim Plan proposed in the 1968 survey prepared for the Halifax County system could still be implemented even if the constitutionality of the Scotland Neck district were upheld. (Overman's Deposition, pp. 144-151). He also testified that Halifax County would still get the same amount of money per pupil from State, Federal and local sources and that the county would have an even better pupil-teacher ratio in certain areas of instruction.

One of the principal questions in passing on the constitutionality of Chapter 31 relates to the motivation of the proponents and supporters of the Scotland Neck legislation. The plaintiffs contend that the motivation be-

hind the passsage of the act was simply a desire to decrease the proportion of black students in the Scotland Neck schools. The defendants submit that the primary reason for the legislation was a desire on the part of the people and leaders of Scotland Neck to increase the quality of education in the Scotland Neck schools. After closely scrutinizing the record and after carefully considering the arguments of counsel, this Court is of the opinion that the following motivating forces were responsible for the design of the legislation creating the separate Scotland Neck school district: (1) the desire to improve the educational level in the Scotland Neck schools, the present conditions in those schools having been brought about by a lengthy history of neglect and discrimination with respect to financial allocations to the Scotland Neck schools by the Halifax County Board of Education; (2) a desire on the part of the leaders of Scotland Neck to preserve a ratio of black to white students in the schools of Scotland Neck that would be acceptable to white parents and thereby prevent the flight of white students to the increasingly popular all-white private schools in the area; (3) a desire on the part of the people of Scotland Neck to control their own schools and be in a position to determine their direction with more finality than if the schools were a part of the Halifax County system. In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck, but it is sufficient to say that the record amply supports the proposition that each of the three played a significant role in the final passage and implementation of Chapter 31.

There is lengthy testimony supported by the historical treatment of the Scotland Neck schools by the Halifax County Board of Education to the effect that the primary reason for the new district was that the people of Scotland Neck felt they could have a better education system if they could have a separate school district, levy a supplemental tax upon themselves and exert more local con-

trol over the operation of the schools within the corporate limits of the town. Mr. Aubray Powell, the black member of the new Scotland Neck school board, testified on deposition that he thought the bill originated because the people of Scotland Neck thought it would provide a better education for their children. (Powell's Deposition, pp. 5-6). Mr. Powell said that the question of the private schools was never discussed among the school board of Scotland Neck and that the issue had never been mentioned to him. Dr. Craig Phillips said in his deposition that after discussing the bill with Josey, Harrison and Shields he was convinced that the major point of discussion and the reason for the proposed bill was "simply, concern about the quality of education for the youngsters involved in Scotland Neck." (Phillips' Deposition, p. 15). Mr. Henry Harrison, a strong proponent of the improvement of the Scotland Neck schools, testified that the people of Scotland Neck merely tried to improve the education of all the children, both black and white, and that it was his understanding that under the administration in the new school district, the dual school system would be abolished. (Henry Harrison's Deposition, pp. 40-41). Mr. Overman, Superintendent in Halifax County, in discussing the reasons behind the bill proposed in 1965, said that its purpose was to give the people of Scotland Neck more control over their schools and enable them to have a supplementary local tax. (Overman's Deposition, pp. 172-176). He also cited the decrease in the annual capital expenditure outlay tax from 63 cents to 27.5 cents per $100 valuation. (Overman's Deposition, pp. 204-205).

The testimony and the candid admissions of counsel also indicate that the desire to preserve an acceptable white ratio in the school system was a factor behind the passage of the act. Mr. Harrison stated that he told the legislature that white children were going to private schools and that something needed to be done to retain the support of the white people for the public schools. (Henry Harrison's Deposition, p. 18). Mr. Shields and Mr. Overman both testified that they felt that integration would encourage the growth of the all-white private schools. (Overman's Deposition, pp. 217-218, Shields'

Deposition, pp. 70-71). Mr. C. M. Moore said that it was his opinion that the independent school system would be a better alternative than the private schools. (Moore's Deposition, pp. 18-19). Mr. Shields testified to the same thing and said that most of the adults in Scotland Neck held the same opinion.
(Shields' Deposition, pp. 23-26).

One factor which the plaintiff has attempted to use as proof that the bill will produce an inferior school system and that, therefore, it could not have been put forth for educational reasons is that there is substantial opinion among educators that there are considerable educational advantages to be derived from the greater efficiency and better allocation of resources frequently associated with the operation of school units with larger numbers of pupils. However, the Court feels impelled to consider the points raised by the arguments of counsel for both sides because of the great amount of effort put forth by both sides to show why the proposed school district in Scotland Neck might or might not be better than the Halifax County system out of which it was carved.

Many educators agree in general principle with the suggestion made in the report of the Governor's Study Commission[9] that the merger of administrative units is a desirable thing because it frequently leads to the increased efficiency in the operation of the public schools. Mr. Overman testified that the North Carolina Teacher's Association approves the suggested number of 9,000-10,000 as a desirable pupil population and the suggested minimum of 3,500-4,000 in the size of school units as recommended on page 164 of the study commission's report. (Overman's Deposition, p. 72). Dr. Craig Phillips is also firmly committed to the policy of consolidation and

[9] The Report of the Governor's Study Commission on the Public School System of North Carolina is a 302-page report prepared by a 17-member commission appointed by Governor Dan K. Moore. The report was submitted December 3, 1968, and was prepared in response to the question "How best can the people of North Carolina meet their obligation to provide full educational opportunities for their children?" In conducting the study, the commission consulted experts, conducted research and visited a number of schools.

the advisability of reaching a 5,000 student population unit if possible and testified that the number of units in North Carolina has declined from a peak of 177 to the present number of 155. (Phillips' Deposition, pp. 35-36).

Further argument against the educational advantages of the new district is that the Scotland Neck school board did not actually make any plans to use the additional tax money for teachers' supplements. The only proposed change in salaries was to give the superintendent an $1800.00 per year supplement. There were plans to set up a curriculum study program in the fall of 1969 to determine which courses would be of most benefit to the students in the Scotland Neck system, but the only planned changes in the school curriculum for the 1969-70 school year was the elimination of the music course and some trade courses. (Powell's Deposition, pp. 23-24). There were no studies made prior to the introduction of the bill with respect to the educational advantages of the new district, and there was no actual planning as to how the supplement would be spent although some people assumed it would be spent on teachers' supplements.

The thing which makes it difficult for this Court to base its conclusions on the quality of education in the new unit is that there is so much conflict in the testimony. For example, Craig Phillips, although endorsing the trend toward mergers of school units, testified that he would ascribe very strongly to the statement on page 29 of the school survey of 1968[10] that "the one best single determinant in the quality program of education is the financial factor. . . ." He testified that many of the smaller units do turn out a better product than the larger units and that he was aware that units in the 823-2,000 pupil category rank higher in many significant categories than some of the larger units. (Phillips' Deposition, pp. 93-95). This Court also, in examining the rankings of the various schools with respect to many categories, notes that the smaller schools do rank higher in some rather

[10] A survey of the Halifax County schools prepared in September, 1968, by a seven-member committee under the supervision of the Division of School Planning in the North Carolina Department of Public Instruction and the direction of Dr. J. L. Pierce, Director.

significant categories and that the Halifax County unit ranks near the bottom in a number of the categories.[11]

Another factor worthy of mention is the plaintiff's introduction into evidence of several newspaper articles which discuss a supposed motivation for the bill. The articles taken from the *Raleigh News and Observer*, suggest that racial considerations, and not a concern for better education, motivated the legislation. For example, on February 2, 1969 the newspaper wrote that Halifax County Negroes outnumbered whites, that the reverse existed in Scotland Neck and that Halifax County Negroes had opposed the bill. On February 14, 1969, the

[11] The Profile of Significant Factors in Education in North Carolina, a ranking of school administrative units prepared in July, 1968, by the Statistical Services Division of the North Carolina Department of Public Instruction, shows that the Halifax system, the Tryon City system (smallest unit in the state), and the Tyrrell County system (small rural agricultural county) rank, in relation to the 166 units in the state and in the following categories, as follows:

	Tryon	Tyrrell	Halifax
1. % of classroom teachers with graduate certificates, Table 1, p. 1	59	98	120
2. % of professional staff paid entirely from local funds, Table 4, p. 13	54	87	135
3. % of classroom teachers with maximum experience for pay purposes, Table 5, p. 17	14	5	84
4. % of classroom teachers with no prior experience, Table 6, p. 21	160	38	12
5. % of high school graduates entering college, Table 7, p. 25	4	134	162
6. % of h. s. grads. entering trade, business or other schools, Table 8, p. 29	86	63	123
7. Pupil to staff ratio, Table 14, p. 49	31	69	138
8. Per pupil expenditures of local funds, Table 24, p. 89	48	109	125

paper commented editorially that the bill provided for an "educational island" dominated by whites and on February 22, 1969, suggested that if the bill passed, it would encourage other school districts to provide similar legislation. This Court has chosen to admit the newspaper articles for the purpose of showing that they did appear and not for the purpose of showing the truth of the information contained in them.[12]

CONCLUSIONS OF LAW

Three legal principles are applicable to an analysis of the constitutional issues now before this court. The first is that any federal court should be hesitant to declare a state statute unconstitutional. As stated in *Phillips Petroleum Company* v. *Jones*, 147 F. Supp. 122, 125 (D. Okla., 1955) (three-judge court):

> "Federal jurisdiction, though existent, will not be exercised to strike down a state statute unless it is clearly and palpably unconstitutional upon its face, the enforcement of which will cause immediate and irreparable harm to the complainant, as to which there is no legal or administrative remedy. . . ." [cites omitted]

There is similar language in numerous other cases, but, for reasons which need not be considered at this time, the principle has not been applied extensively in cases involving race, civil rights or school desegregation; and the principle is therefore of limited relevancy in resolving the questions now under consideration.

The second applicable principle relates to what the Supreme Court and the lower courts have said about what school boards and state and local school officials must do to guarantee black students their constitutional

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[12] Although there is authority for admitting the newspaper articles to show legislative intent where there are no other reports made contemporaneously with the passage of the act, *e.g.*, *United States* v. *Louisiana*, 225 F. Supp. 353, 375 n. 59 (E. D. La., 1963) (three-judge court), this Court has chosen to limit the admissibility of the articles as stated.

rights in the area of school desegregation. The relevant cases here would appear to be *Brown* v. *Board of Education* (Brown I), 347 U. S. 483, 98 L. Ed. 873, 74 S. Ct. 686 (1954), *Brown* v. *Board of Education* (Brown II), 349 U. S. 294, 99 L. Ed. 1083, 75 S. Ct. 753 (1955), *Green* v. *New Kent County School Board*, 391 U. S. 430, 20 L. Ed. 2d 716, 88 S. Ct. 1689 (1968), *Alexander* v. *Holmes County Board of Education*, 396 U. S. 19, 24 L. Ed. 2d 19, 90 S. Ct. 29 (October 29, 1969). As this Court reads and interprets these relevant opinions, it would seem that the Supreme Court is concerned about establishing school systems which operate and assign their students to a particular school without regard to the student's race or color. Justice Brennan, speaking for the Court in the *Green* decision said the following:

> "It was . . . dual systems that 14 years ago Brown I held unconstitutional and a year later Brown II held must be abolished; . . . 391 U. S. at 435, 20 L. Ed. 2d at 722.

and

> "The transition to a unitary, non-racial system of public education was and is the ultimate end to be brought about; . . ." 391 U. S. at 436, 20 L. Ed. 2d at 722.

Brown II used the phrase "racially nondiscriminatory school system" and *Green* used the phrase "unitary nonracial school system" as the description of that which the constitution requires.

The requirement that school systems must be nonracial was injected with an air of immediacy by the *Green* decision in May, 1968. An even stronger demand for desegregation *now* was made in October, 1969, when the Court, in a per curiam opinion, *Alexander* v. *Holmes County Board of Education*, stated that the "all deliberate speed" standard was no longer applicable and that ". . . the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools." 24 L. Ed. 2d at 21.

As of the entry of this Opinion and Order the Supreme Court has failed to give an exact definition of a unitary nonracial school system. Although the Supreme Court has condemned gerrymandering, freedom-of-choice plans, free-transfer plans, and racially identifiable schools, student bodies or faculties which to retain the vestiges of the segregated dual system, no case has been brought to the attention of this Court (with the possible exception of the recent Georgia case) which requires any specific ratios of blacks to whites in a classroom, school or school district. Despite newspaper articles and perhaps some district court opinions to the contrary, the Supreme Court has not yet required bussing or population changes to effect particular black-white ratios in the schools. The emphasis of the Court has been on the nature of the school system and how it treats and assigns its students and faculty members. The Supreme Court has not yet concerned itself with the actual numbers of blacks and whites attending school together except where the numbers or percentages reflect that the school system is assigning its students or faculty or making some decisions on the basis of the race of the individuals involved.

The third legal principle relevant to the analysis of this case is that stated in *Gomillion* v. *Lightfoot*, 364 U.S. 339, 5 L. Ed. 2d 110, 81 S. Ct. 125 (1960) that "acts generally lawful may become unlawful when done to accomplish an unlawful end." In that case, the Supreme Court invalidated an Alabama statute which had redefined the boundaries of the City of Tuskagee to reduce the black vote. Legislative manipulation to affect the constitutional rights of blacks has been a familiar practice in several southern states in recent years, two examples being found in *Hall* v. *St. Helena Parish School Board*, 197 F. Supp. 649 (E. D. La., 1961), and *Poindexter* v. *Louisiana Financial Assistance Commission*, 275 F. Supp. 833 (E. D. La., 1967), aff'd, 389 U. S. 571, 19 L. Ed. 2d 780, 88 S. Ct. 693 (1968), two cases by three-judge courts which struck down attempts by the Louisiana legislature to continue a segregated public school system under the guise of assistance payments to private school students.

Applying this principle to the assignment of pupils, the case of *Haney* v. *County School Board of Education of Seveir County*, 410 F. 2d 920 (8th Cir. 1969), becomes relevant. In that case, plaintiffs challenged the existence of an all-black school in one district of the county and an all-white school in a different district of the same county. The district court dismissed the complaint on the grounds that the districts had not been created for the purposes of denying plaintiffs their constitutional rights and were therefore valid. The court of appeals reversed the district court on the grounds that the creation of the districts, in accordance with a statutory reorganization of Arkansas schools in 1948 in accordance with the then-existing Arkansas law, was unconstitutional because the 1948 law required Arkansas schools to be segregated and the boundaries of the school districts were obviously drawn to continue the segregated schools. In this Court's opinion, the holding in the *Haney* case was simply that the maintenance of segregated schools cannot be justified "simply because of pre-*Brown* geographic structuring of school districts."

Also demonstrative of the Gomillion principle is the Supreme Court decision in *Monroe* v. *Board of Commissioners of the City of Jackson, Tennessee*, 391 U. S. 450, 20 L. Ed. 2d 733, 88 S. Ct. 1700 (1968), in which the Supreme Court struck down a free-transfer plan which enabled a child, after first registering at the assigned school in his attendance zone, to transfer to the school of his choice if space were available. The Court objected to the plan on the gorunds that it delayed the conversion to a unitary nonracial system where, after three years of operation under the plan, all of the whites remained in the white school and 80% of the blacks remained in the black school.

Perhaps the two most relevant, but still distinguishable cases are two district court decisions rendered within the last few months in Virginia and Arkansas. In *Burleson* v. *County Board of Election Commissioners of Jefferson County*, No. PB-69-C-65 (E. D. Ark., September 22, 1969), an opinion by District Judge J. Smith Henley, the plaintiffs, residents of the Dollarway School District,

challenged the implementation of the results of a local election which would have permitted the Hardin area of the district, a noncontiguous area with a 99%-white student population, to be severed from the district. The court enjoined the implementation of the election on the grounds that severance would impede the Dollarway School Board's efforts to comply with that court's order to integrate the schools and because the Board would have had difficulty in finding white teachers who would teach in the district if blacks greatly outnumbered whites. Also, the district would have lost some operating funds and there were no schools or other facilities in the Hardin area available for the school children in that area.

The second case is *Wright* v. *County School Board of Greensville County*, No. 4263 (E. D. Va., August 8, 1969), a decision by District Judge Robert R. Merhige. In that case, the Greensville County School Board was in the process of carrying out a court-ordered plan of desegregation, and the City Council and other officers of the City of Emporia, on July 9, 1969, convened a special meeting to establish a separate city school system. On July 10th, the mayor sought to buy or lease from the county the school buildings located within the city. At a July 14th meeting, after hearing the mayor express his dissatisfaction with the proposed plan of desegregation for the county, the City Council unanimously decided to instruct the City School Board to take steps to establish a separate school division for the city. On July 23rd, the City Council adopted a resolution requesting the State Board of Education to authorize the creation of a separate school division. The City School Board notified the county board that no city children would attend the county system thereafter and that the city would no longer share the costs of the county system. The plan of operation proposed by the City of Emporia would have afforded those students residing outside of the city the opportunity to attend the city schools on a "tuition-no transportation" basis. The members of the City School Board offered no assistance to the county board in the submission of a plan of desegregation to the district court.

The district court found as a matter of law that the City School Board, as successor to the Greensville County Board, was required to disestablish racial segregation in the school system in accordance with the plan approved by the court. The establishment and operation of a separate school system would have been an impermissible interference and frustration of the court's order.

Application of the constitutional case law to the issue before this Court, the separation of the Scotland Neck school unit from the larger Halifax County unit, creates a more difficult question than this Court has been able to find in any of the questions presented in the earlier cases. With the transfer system as it was originally proposed, this Court would probably have less difficulty in finding the scheme unconstitutional, because the Scotland Neck school district in view of the economics of the situation, that is, the inability of blacks to afford the transfer fees, would become a refuge or haven for those white students in the county who wished to escape the real or imagined disaster of a substantial black majority in the Halifax County System. Now that the defendant Scotland Neck City Board of Education, in its First Further Answer of September 3, 1969, has agreed to either eliminate the transfer system or adopt a system which would comply with the Board's constitutional obligations, the question has become even more difficult. What this Court is now faced with is assessing the results of the creation of the new unit strictly in terms of the effect it has on the relationship of those students residing within the corporate limits of Scotland Neck and those residing in Halifax County. The creation of the new unit does take some of the white students out of the Halifax County unit, and thereby does reduce the proportion of whites in a school system already top-heavy with black students.

It is apparent that Chapter 31, of the Session Laws of 1969 was enacted with the effect of creating a refuge for white students of the Halifax County School system, and interferes with the desegregation of the Halifax County School system, in accord with the plan adopted by said Board to be implemented on or before June 1, 1970.

THEREFORE, this Court's findings of fact that the legislative bill creating the district was at least partially motivated by a desire to stem the flight of white students from the public schools, the Court must find that the act is unconstitutional and in violation of the Equal Protection Clause of the 14th amendment and must enter permanent injunctive relief for the plaintiff.

Since the record in this case conclusively shows that the Act of the General Assembly creating the Scotland Neck unit in Halifax County serves no State interest and prevents the Halifax County Board of Education from complying with the orders of this court issued in protection of constitutional rights, it is the court's opinion that Chapter 31 of the North Carolina Session Laws of 1969 is unconstitutional. A judgment in accordance with this opinion will be entered by the court.

ORDER

NOW, THEREFORE, in accordance with the foregoing, it is:

ORDERED that the further implementation of Chapter 31 of the 1969 Session Laws of North Carolina be, and the same hereby is, permanently enjoined; and,

ORDERED that the Clerk shall serve copies of this OPINION and ORDER upon all counsel of record.

Let this ORDER be entered forthwith.

/s/ Algernon L. Butler
Chief Judge
United States District Court

/s/ John D. Larkins, Jr.
United States District Judge

May 23, 1970.

[Caption Omitted]

JUDGMENT

Upon consideration of the pleadings, evidence, briefs of counsel and oral arguments, the Court, for the reasons set forth in its Opinion and Order filed herein, ORDERS:

1. That Chapter 31 of the Session Laws of North Carolina 1969 creating the Scotland Neck Administrative Unit is declared to be unconstitutional and null and void.

2. That the defendants, their respective officers, agents, servants and employees be, and they are hereby permanently enjoined from any and all further proceedings pursuant to said statute.

This 23 day of May, 1970.

/s/ Algernon L. Butler
Chief Judge
United States District Court

/s/ John D. Larkins, Jr.
United States District Judge

[Caption Omitted]

AMENDED ORDER

For good cause shown, it is hereby ordered that the "Proposed Interim Plan" of the defendant, Halifax County Board of Education as prepared by the North Carolina Department of Instruction, subject to the secondary amendments of the Board included in their proposal to the court be amended by changing on Page 2 of said Interim Plan under District 4 that portion which reads "Aurelian Springs, Chaloner, and McIver—Use the combined 95 teaching stations to house pupils in grades 1-9 in their respective locations of the district. Everetts—This school (20 classrooms) is recommended for grades 1-8 only." to read as follows: "Aurelian Springs, Everetts, and McIver—Use the combined 85 teaching stations to house pupils in grades 1-8 in their respective locations of the district."

It is further ordered that the Order of this court dated May 18, 1970 is amended to read as follows:

"ORDERED that the Motion of Defendant be and the same is hereby, Allowed; and that the "Proposed Interim Plan" of the Defendant Halifax County Board of Education as prepared by the North Carolina Department of Instruction, subject to the secondary amendments of the Board included in their proposal to this Court, and any subsequent amendments approved by this Court, the same having been adopted by the Court be Implemented by the Board no later than June 1, 1970.

FURTHER ORDERED, that the Motion of Plaintiff for immediate implementation at mid-year be, and the same is hereby Denied; and,

FURTHER ORDERED, that the Clerk shall serve copies of this AMENDED ORDER upon all counsel of record.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Trenton, North Carolina,
June 1st 1970

[Caption Omitted]

NOTICE OF APPEAL

Notice is hereby given that Scotland Neck City Board of Education, a body corporate, defendant above named, hereby appeals to the United States Court of Appeals for the Fourth Circuit from the final Judgment entered May 26, 1970, declaring Chapter 31 of the 1969 Session Laws of North Carolina unconstitutional and from the Order entered May 26, 1970, permanently enjoining Chapter 31 of the 1969 Session Laws of North Carolina.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY
105 West 11th Street
Scotland Neck, North Carolina

/s/ William T. Joyner
WILLIAM T. JOYNER

/s/ Walton K. Joyner
WALTON K. JOYNER
906 Wachovia Bank Building
Raleigh, North Carolina
Attorneys for Defendant

[Caption Omitted]

NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT BY ROBERT MORGAN, Attorney General of North Carolina; NORTH CAROLINA STATE BOARD OF EDUCATION and DR. A. CRAIG PHILLIPS, State Superintendent of Public Instruction.

Notice is hereby given that Robert Morgan, Attorney General of North Carolina, the State Board of Education of North Carolina and Dr. A. Craig Phillips, North Carolina State Superintendent of Public Instruction, the State Defendants above named, hereby appeal to the United States Court of Appeals for the Fourth Circuit from the Opinion and Order entered by the District Court of the United States for the Eastern District of North Carolina in this cause (No. 1128—Civil), dated May 23, 1970, and signed by Algernon L. Butler, Chief Judge of the United States District Court, and by John D. Larkins, Jr., United States District Judge, and from the Judgment in said cause also dated May 23, 1970, signed by said Algernon L. Butler, Chief Judge of the United States District Court for the Eastern District, and John D. Larkins, United States District Judge, which said Judgment was entered by virtue of the Opinion and Order above referred to. Said Appeal is entered under the applicable section of the United States Code allowing such appeals and applicable Rules of Civil Procedure.

This the 1st day of July, 1970.

/s/ Robert Morgan
Attorney General of
North Carolina

/s/ Ralph Moody
Deputy Attorney General

/s/ Andrew A. Vanore, Jr.
Assistant Attorney General

[Caption Omitted]

MOTION

Now comes the defendant, Halifax County Board of Education, and respectfully moves the Court:

That the "Proposed Interim Plan" of the defendant, Halifax County Board of Education, as prepared by the North Carolina Department of Instruction, subject to the secondary amendments of the Board included in its proposal to this Court and subject to an amendment to said Plan as ordered by this Court on June 1, 1970, be further amended as concerns District I and in accordance with a Map of said District, which Map is attached herewith as "Exhibit A," as follows:

> Pupils in grades one through eight living in District I will be assigned to the elementary school located in the attendance zone in which they live. Elementary schools located in District I are Bakers, Brawley, Dawson, Tillery Chapel, Thomas Shields and Scotland Neck.
>
> Pupils in grades nine through twelve living in the elementary attendance zones of Bakers, Brawley, Dawson, Tillery Chapel and Thomas Shields will be assigned to Brawley School and those living in the Scotland Neck elementary attendance zone will be assigned to Scotland Neck School. The Scotland Neck elementary attendance zone would be restricted to the present city limits of the town.

The movant, Halifax County Board of Education, gives as its reasons for making this Motion as follows:

The Scotland Neck City Board of Education, one of the defendants in this action, has given Notice of Appeal in one of the causes of action in this case in which this Court declared the act creating the Scotland Neck City Administrative Unit unconstitutional and enjoined the Scotland Neck City Board of Education from taking any action authorized by the Statute. To carry out the existing Interim Plan for District I as heretofore ordered by

this Court, the Halifax County Board of Education must immediately make substantial changes to the physical plants of the Scotland Neck School as well as the Brawley School; such as removing desks, blackboards, toilet facilities, library and text books for grades one through nine from Scotland Neck School and placing them in Brawley School and changing these same facilities for grades ten through twelve at Brawley School and placing them in the Scotland Neck School. Some vocational and commercial courses heretofore taught at Brawley School will be taught in Scotland Neck and hence some of the equipment and instructional material incidental to the teaching of these courses will be removed from Brawley School and placed in Scotland Neck School and some equipment and instructional material will be removed from Scotland Neck School to Brawley School. Renovations for laboratories, libraries, classrooms, shops, etc. will be required and moving of equipment necessary. Varsity athletic equipment as well as high school extracurricular activities and supplies must be removed from Brawley and space made available therefor in Scotland Neck School. Most staff and faculty connected with grades one through nine in Scotland Neck School must be assigned and transferred to other schools and most of the staff and faculty connected with grades ten through twelve in Brawley School must be assigned and transferred to Scotland Neck.

In the event that the Appellate Courts find the Statute creating the Scotland Neck City Administrative Unit constitutional, the reverse of the above would cause great expense and inconvenience.

It is the opinion of the Halifax County Board of Education that if the Plan under the present Order of the Court is implemented a substantial number of the staff and faculty originally hired by the Scotland Neck City Administrative Unit may not remain with the Halifax County Board of Education and may not be available for employment by the Scotland Neck City Board of Education upon that Board's being duly constituted and operative.

It is further the opinion of the Halifax County Board of Education that if this Motion is allowed there will in fact be more integration of the races in District I beginning in the fall of 1970 than there will in fact be under the present Plan and Order of the Court.

The Halifax County Board of Education further moves the Court that the above requested amendment to said Plan and Order of the Court be effective immediately and remain in effect through the school year during which a final determination of the constitutionality of the Statute creating the Scotland Neck City Administrative Unit is rendered in the highest Court of the United States to which an appeal is taken.

This the 24th day of June, 1970.

/s/ W. Lunsford Crew
W. LUNSFORD CREW
Attorney for Defendant,
Halifax County Board of
Education

[Caption Omitted]

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO AMEND INTERIM DESEGREGATION PLAN APPROVED MAY 19, 1970

The United States objects to the motion of the Halifax County Board of Education filed with the Court on June 25, 1970, which proposes to amend the Order of May 19, 1970, with respect to the operation of the Scotland Neck School and the Brawley School. Under the present Order Scotland Neck is to serve grades 10-12 and Brawley to serve grades 1-9 in the same attendance area henceforth. The Halifax County Board of Education (hereinafter the Board) now proposes to retain both Scotland Neck and Brawley as twelve grade facilities serving separate attendance areas, pending a ruling of the Circuit Court of Appeals for the Fourth Circuit on the appeal taken from this Court's Order of May 26, 1970, by the Scotland Neck City Board of Education and the Attorney General of North Carolina. The appeal seeks a reversal of this Court's Order permanently enjoining the further implementation of Chapter 31 of the 1969 Session Laws of North Carolina which established Scotland Neck as a separate administrative unit for the operation of the public schools in Scotland Neck. The United States objects to the motion on the following grounds:

1. In substance, the motion of the Board is a motion to stay implementation of that part of the Court's Order of May 19, 1970, which relates to the operation of the Scotland Neck and Brawley Schools. Accordingly, the motion is in direct conflict with current judicial standards requiring the immediate implementation of desegregation plans *pendente lite*. Stays of court orders which would result in the continued operation of dual schools are uniformly denied. *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1959); *Carter* v. *West Feliciana School Board*, 396 U.S. 290 (1970); *Nesbit* v. *Statesville City Board of Education*, 418 F.2d 1040 (4th Cir. 1969) (en banc) (per curiam); *Whittenberg* v. *School District of Greenville County*, 424 F.2d 195 (4th Cir. 1970); *Swann* v. *Charlotte-Macklenburg Board of Education*, F.2d , No. 14,517 (4th Cir., decided May 26, 1970); *Green* v. *School Board of the City of*

Roanoke, Virginia, F.2d , No. 14,335 (4th Cir., decided June 17, 1970); *United States* v. *School Board of Franklin City, Virginia,* F.2d , No. 14,276 (4th Cir., decided June 11, 1970); *Brewer* v. *The School Board of the City of Norfolk, Virginia,* F.2d , No. 14,544 (4th Cir., decided June 22, 1970). The pairing of Scotland Neck and Brawley required by the Order of May 19, recognizes that as separate twelve grade facilities these schools retain the trappings of dual schools based on race. If granted, the Board's motion would result in a continuation of the dual school system for the students attending these schools until "such time as a final determination of the constitutionality of the statute creating the Scotland Neck City Administrative Unit is rendered in the highest Court of the United States to which an appeal is taken." (Board's motion, p. 3). Such a result is constitutionally impermissible.

2. The administrative problems the Board asserts it will encounter in implementing that part of the May 19 Order relating to the pairing of the Scotland Neck and Brawley Schools, may not serve to delay the vindication of constitutional rights. *Alexander* v. *Holmes County Board of Education,* supra; *Carter* v. *West Feliciana School Board,* supra; *Whittenberg* v. *School District of Greenville County,* supra; *Coppedge* v. *Franklin County Board of Education,* 293 F. Supp. 356 (C.D.N.C. 1968), aff'd 404 F.2d 1177 (4th Cir. 1968).

WHEREFORE, the Plaintiff prays that this Court deny the motion of the Board to amend the Order of May 19, 1970, as modified by the Order of June 2, 1970. Plaintiff further prays that the Court grant a hearing on Plaintiff's objections to the Board's motion.

Respectfully submitted,

BRIAN K. LANDSBERG
LESLIE D. SMITH
ROBERT DEMPSEY
Attorneys
Department of Justice
Washington, D. C. 20530

[Caption Omitted]

ANSWER TO MOTION

Now comes the defendant, Scotland Neck City Board of Education, in Answer to the Motion of the Halifax County Board of Education dated the 24th day of June, 1970, and says that it does not object to said Motion and joins with the defendant, Halifax County Board of Education, in requesting the Court that said Motion be allowed for the reasons that:

If the Motion is not allowed, the physical school plant of this defendant must be almost completely revamped with all of the desks, toilet facilities, blackboards, books, instructional aids and extracurricular activities equipment of grades one through nine being physically removed and reinstalled in plants outside the Scotland Neck City Administrative Unit and the space now occupied by these classes being physically converted for use by senior high school students and their activities; all of the staff and faculty which were connected with grades one through nine during the past year would be assigned to a school outside the Scotland Neck City Administrative Unit and many of whom would probably not accept such reassignment and would be thereafter unavailable to teach in the public school and not be available for reassignment to the Scotland Neck City Administrative Unit if the Unit is ultimately found to be legally constituted; this defendant has not only given notice of appeal to the United States Court of Appeals for the Fourth Circuit but has heretofore filed a Motion with such Court requesting that the appeal be heard at the earliest possible date; based on the evidence presented at the trial of the case against the Scotland Neck City Board of Education and on the Findings of Fact by the United States District Court for the Eastern District of North Carolina and on the applicable law involved, it would appear that there are reasonable expectations that the law creating the Scotland Neck City Board of Education and its school unit will be held constitutional and in all respects lawful; in the event that said Statute is held con-

stitutional and the Scotland Neck City Administrative Unit becomes operative and the Motion is not allowed, a tremendous expense would be required by the Scotland Neck City Board of Education to recondition its school plant to properly provide for students in classes one through twelve; in addition, such decision of the Appellate Court may well come in the middle of a school term and such physical repairs as necessary would interrupt the education of the students for such a period of time as the repairs would require; a similar expense and interruption of classes would be experienced by certain schools of the Halifax County Board of Education; if the Motion is allowed and the Appellate Court finds the Scotland Neck School law constitutional, there would be no necessity for any changes in physical plants either by the Halifax County Board of Education or the Scotland Neck City Board of Education, there would be no expense involved and the education of the students would not be in any way interrupted, and for the most part the staff and faculty of the Scotland Neck School as well as certain schools of the defendant, Halifax County Board of Education, would be undisturbed; in addition to the above reasons, it is clear from the evidence in the Scotland Neck School case that even if the Statute creating the Scotland Neck School is found to be constitutional, enthusiastic support of all citizens of the town of Scotland Neck will be necessary in order to operate the City system of Schools with approximately an equal number of white and black students, and if this Motion is not allowed and the Schools of the town of Scotland Neck are physically and psychologically broken up, the future support of the citizens may well be more difficult to attain.

This the 14th day of July, 1970.

/s/ C. Kitchin Josey
C. KITCHIN JOSEY, One of the Attorneys for the Defendant, Scotland Neck City Board of Education

[Caption Omitted]

PLAINTIFFS' IN INTERVENTION OPPOSITION TO DEFENDANT'S MOTION TO AMEND INTERIM DESEGREGATION PLAN APPROVED MAY 19th, 1970.

Plaintiffs in Intervention, PATTIE BLACK COTTON, EDWARD M. FRANCIS, public school teachers, and black students in District 1, inside and outside of the Town Limits of Scotland Neck, N. C., join with the Plaintiff, UNITED STATES OF AMERICA, in opposition to the Motion of the Defendant, HALIFAX COUNTY BOARD OF EDUCATION, filed with the Court on June 25th, 1970 and proposing to Amend the Order of the Court entered May 19th, 1970 with respect to the operation of the Scotland Neck School, located inside of the Town Limits and the Brawley School, located at the edge of the Town Limits outside the Town of Scotland Neck. The Plaintiffs in Intervention object to the Defendant Board's Motion upon the following grounds:

1. That the Map, Exhibit "A" to the Motion of the Defendant, shows six (6) schools inside of District No. 1 and 658 white students to be assigned within the District and the assignment, if the amendment is allowed, being 399 or about 2/3 of the white student body, for the Scotland Neck School inside the Town Limits with only about 1/3 of the white student body being assigned to the other 5 schools where black students would in any event, constitute the largest number and made to constitute an even larger number by the limiting of white students inside of the Town Limits to the school located within the small town.

2. That the limiting of the school zone to the small student body inside of the Town of Scotland Neck as proposed by the Motion of the Defendant Board, would cause a continuation of the loss of Trade Courses and Teachers resulting from the small unit created by the school separation act declared unconstitutional by the Court and would prevent the re-instatement of teachers

and Trade Courses terminated as a result of the creation of the small school district declared unconstitutional.

3. That the approval of the Motion of the Defendant School Board, would give sanction and encouragement to faculity employment and assignment based upon race and color of the teacher and the majority of the student body and would deprive both students and teachers of the desegregation required by law.

WHEREFORE, the Plaintiffs in Intervention, pray that the Court deny the Motion of the Defendant School Board to amend the Order of May 19th, 1970 as amended by order of the Court on June 1, 1970.

Respectfully submitted,

James R. Walker, Jr.
501 West 3rd Street
Weldon, N. C.

Samuel S. Mitchell
126½ East Hargett Street
Raleigh, N. C.

/s/ By James R. Walker, Jr.
Attorneys for Plaintiffs in Intervention.

[Caption Omitted]

ORDER

LARKINS, District Judge:

This cause coming on before the Court upon defendants' motion, filed June 25, 1970, to amend the Order of May 19, 1970, with respect to the operation of the Scotland Neck School and the Brawley School District I of the Interim Desegregation Plan prepared by the North Carolina Department of Instruction, subject to the secondary amendment of the Board, which was adopted by the Court on December 19, 1969.

Under the present Order, Scotland Neck is to serve grades 10-12 and Brawley to serve grades 1-9 in the same attendance area. The defendants propose to retain both Scotland Neck and Brawley as twelve grade facilities serving separate attendance areas pending a ruling of the Circuit Court of Appeals for the Fourth Circuit on the appeal taken from this Court's Order of May 26, 1970, by the Scotland Neck City Board of Education and the Attorney General of North Carolina. The appeal seeks a reversal of this Court's Order permanently enjoining the further implementation of Chapter 31 of the 1969 Session Laws of North Carolina which established Scotland Neck as a separate administrative unit for the operation of the public schools in Scotland Neck.

A hearing on the motion of the defendants was held on July 21, 1970. Due consideration having been given to the motion of defendants, the documents filed with the Court, and the oral arguments of counsel for the United States, the Halifax County Board of Education, and the Scotland Neck City Board of Education respectively, it is hereby ORDERED as follows:

The motion of the defendants to amend the Order of May 19, 1970, with respect to the operation of the Scotland Neck School and the Brawley School is hereby Denied; and,

FURTHER ORDERED, that the Clerk shall serve copies of this ORDER upon all counsel of record.

/s/ John D. Larkins, Jr.
JOHN D. LARKINS, JR.
United States District Judge

Raleigh, North Carolina
July 21, 1970

HALIFAX COUNTY SCHOOLS

W. HENRY OVERMAN, SUPERINTENDENT
HALIFAX, N. C.

September 15, 1970

NORTH CAROLINA

HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on September 15, 1970 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	White	Negro	Indian	Total
Aurelian Springs (K 8)	318	583	6	907
Bakers (1-8)	0	266	0	266
Brawley (1-9)	226	650	0	876
Dawson (1-8)	26	421	0	447
Eastman (8-12)	0	709	68	777
Enfield (9-12)	63	418		481
Everetts (1-8)	309	406	0	715
Hollister (1-7)	0	283	138	421
Inborden (1-8)	52	1130	0	1182
McIver (1-8)	0	565	0	565
Pittman (1-7)	2	443	2	447
Scotland Neck (10-12)	91	524	0	615
Thomas Shields (1-8)	39	222	0	261
Tillery Chapel (1-8)	10	209	0	219
White Oak (1-7)	2	302	21	325
Wm. R. Davie (9-12)	302	585	0	887
	1440	7716	235	9391

/s/ W. Henry Overman

Presented to Court of Appeals by appellants, without objection, 9/16/70.

Sworn to and subscribed before me this 15 day of September, 1970.

/s/ Doris W. Netherbord
Notary Public

My commission expires: 9-9-75

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

December 2, 1970

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on December 2, 1970 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	White	Negro	Indian	Total
Aurelian Springs (k-8)	324	562	6	892
Bakers (1-8)	0	266	0	266
Brawley (1-9)	212	670	0	882
Dawson (1-8)	23	419	0	442
Eastman (8-12)	0	690	62	752
Enfield (9-12)	66	423	0	489
Everetts (1-8)	333	385	0	718
Hollister (1-7)	0	270	151	421
Inborden (1-8)	54	1117	0	1171
McIver (1-8)	0	572	0	572
Pittman (1-7)	2	446	2	450
Scotland Neck (10-12)	93	538	0	631
Thomas Shields (1-8)	34	229	0	263
Tillery Chapel (1-8)	10	209	0	219
White Oak (1-7)	2	308	22	332
Wm. R. Davie (9-12)	300	636	0	936
	1453	7740	243	9436

/s/ W. Henry Overman

WHO:ar

Sworn to and subscribed before me this 2nd day of December, 1970.

/s/ Doris W. Netherland
Notary Public

My commission expires: 9-9-75

[Caption Omitted]

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilson. Algernon L. Butler, District Judge, and John D. Larkins, Jr., District Judge.

(Argued September 16, 1970)

Before BOREMAN, BRYAN and CRAVEN, Circuit Judges.

(Reargued December 7, 1970 Decided March 23, 1971)

Before HAYNSWORTH, Chief Judge, SOBELOFF, BOREMAN, BRYAN, WINTER, CRAVEN and BUTZNER, Circuit Judges sitting en banc, on resubmission.

William T. Joyner and C. Kitchin Josey (Joyner & Howison, and Robert Morgan, Attorney General of North Carolina, on brief) for Appellants; and Brian K. Landsberg, Attorney, Department of Justice (Jerris Leonard, Assistant Attorney General, David L. Norman, Deputy Assistant Attorney General, and Francis H. Kennedy, Jr., Attorney, Department of Justice, and Warren H. Coolidge, United States Attorney, on brief) for Appellee United States of America; and James R. Walker, Jr., (Samuel S. Mitchell on brief) for Appellees Pattie Black Cotton, et al.

CRAVEN, Circuit Judge:

The Scotland Neck City Board of Education and the State of North Carolina have appealed from an order of the United States District Court for the Eastern District of North Carolina entered May 23, 1970, declaring

Chapter 31 of the 1969 Session Laws of North Carolina unconstitutional and permanently enjoining any further implementation of the statute.[1] We reverse.

Chapter 31 of the 1969 Session Laws of North Carolina,[2] enacted by the North Carolina General Assembly

[1] This is one of three cases now before the Court involving the "carving out" of part of a larger school district. The others are Alvin Turner v. Littleton-Lake Gaston School District, —— F.2d —— (No. 14,990) and Wright v. Council of City of Emporia, —— F.2d —— (No. 14,552).

[2] Chapter 31 is entitled and reads as follows:

AN ACT TO IMPROVE AND PROVIDE PUBLIC SCHOOLS OF A HIGHER STANDARD FOR THE RESIDENTS OF SCOTLAND NECK IN HALIFAX COUNTY, TO ESTABLISH THE SCOTLAND NECK CITY ADMINISTRATIVE UNIT, TO PROVIDE FOR THE ADMINISTRATION OF THE PUBLIC SCHOOLS IN SAID ADMINISTRATIVE UNIT, TO LEVY A SPECIAL TAX FOR THE PUBLIC SCHOOLS OF SAID ADMINISTRATIVE UNIT, ALL OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE VOTERS IN A REFERENDUM OR SPECIAL ELECTION.

Section 1. There is hereby classified and established a public school administrative unit to be known and designated as the Scotland Neck City Administrative Unit which shall consist of the territory or area lying and being within the boundaries or corporate limits of the Town of Scotland Neck in Halifax County, and the boundaries of said Scotland Neck City Administrative Unit shall be coterminous with the present corporate limits or boundaries of the Town of Scotland Neck. The governing board of said Scotland Neck City Administrative Unit shall be known and designated as the Scotland Neck City Board of Education, and said Scotland Neck City Board of Education (hereinafter referred to as: Board) shall have and exercise all of the powers, duties, privileges and authority granted and applicable to city administrative units and city boards of education as set forth in Chapter 115 of the General Statutes, as amended.

Section 2. The Board shall consist of five members appointed by the governing authority of the Town of Scotland Neck, and said five members shall hold office until the next regular municipal election of the Town of Scotland Neck to be held in May, 1971. At the regular election for Mayor and Commissioners of the Town of Scotland Neck to be held in May, 1971, there shall be elected five members of the Board, and three persons so elected who receive the highest number of votes shall hold office for four years and the two persons elected who receive the next highest number of votes shall hold office for two years, and thereafter all members

on March 3, 1969, provided for a new school district bounded by the city limits of Scotland Neck upon the approval of a majority of the voters of Scotland Neck in a referendum. The new school district was approved by the voters of Scotland Neck on April 8, 1969, by a vote of 813 to 332 out of a total of 1,305 registered

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of the Board so elected, as successors, shall hold office for four years. All members of the Board shall hold their offices until their sucessor (sic) are elected and qualified. All members of the Board shall be eligible to hold public office as required by the Constitution and laws of the State.

Section 3. All members of the Board shall be elected by the qualified voters of the Town of Scotland Neck and said election shall be held and conducted by the governing authority of the Town of Scotland Neck and by its election officials and pursuant to the same laws, rules and regulations as are applicable to the election of the municipal officials of the Town of Scotland Neck, and the results shall be certified in the same manner. The election of members of the Board shall be held at the same time and place as applicable to the election of the Mayor and Board of Commissioners of the Town of Scotland Neck and in accordance with the expiration of terms of office of members of the Board. The members of the Board so elected shall be inducted into office on the first Monday following the date of election, and the expense of the election of the members of the Board shall be paid by the Board.

Section 4. At the first meeting of the Board appointed as above set forth and of a new Board elected as herein provided, the Board shall organize by electing one of its members as chairman for a period of one year, or until his successor is elected and qualified. The chairman shall preside at the meetings of the Board, and in the event of his absence or sickness, the Board may appoint one of its members as temporary chairman. The Scotland Neck City Superintendent of Schools shall be ex officio secretary to his Board and shall keep the minutes of the Board but shall have no vote. If there exists a vacancy in the office of Superintendent, then the Board may appoint one of its members to serve temporarily as secretary to the Board. All vacancies in the membership of the Board by death, resignation, removal, change of residence or otherwise shall be filled by appointment by the governing authority of the Town of Scotland Neck of a person to serve for the unexpired term and until the next regular election for members of the Board when a successor shall be elected.

Section 5. All public school property, both real and personal, and all buildings, facilities, and equipment used for public school purposes, located within the corporate limits of Scotland Neck and within the boundaries set forth in Section 1 of this Act, and all records, books, moneys budgeted for said facilities, accounts,

voters. Prior to this date, Scotland Neck was part of the Halifax County school district. In July 1969, the United States Justice Department filed the complaint in this action against the Halifax County Board of Education seeking the disestablishment of a dual school system operated by the Board and seeking a declaration of in-

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papers, documents and property of any description shall become the property of Scotland Neck City Administrative Unit or the Board; all real estate belonging to the public schools located within the above-described boundaries is hereby granted, made over to, and automatically by force of this Act conveyed to the Board from the County public school authorities. The Board of Education of Halifax County is authorized and directed to execute any and all deeds, bills of sale, assignments or other documents that may be necessary to completely vest title to all such property to the Board.

Section 6. Subject to the approval of the voters residing within the boundaries set forth in Section 1 of this Act, or within the corporate limits of the Town of Scotland Neck, as hereinafter provided, the governing authority of the Town of Scotland Neck, in addition to all other taxes, is authorized and directed to levy annually a supplemental tax not to exceed Fifty Cents (50¢) on each One Hundred ($100.00) Dollars of the assessed value of the real and personal property taxable in said Town of Scotland Neck. The amount or rate of said tax shall be determined by the Board and said tax shall be collected by the Tax Collector of the Town of Scotland Neck and paid to the Treasurer of the Board. The Board may use the proceeds of the tax so collected to supplement any object or item in the school budget as fixed by law or to supplement any object or item in the Current Expense Fund or Capital Outlay Fund as fixed by law.

Section 7. Within ten days from the date of the ratification of this Act it shall be the duty of the governing authority of the Town of Scotland Neck to call a referendum or special election upon the question of whether or not said Scotland Neck City Administrative Unit and its administrative board shall be established and whether or not the special tax herein provided shall be levied and collected for the purposes herein provided. The notice of the special election shall be published once a week for two successive weeks in some newspaper published in the Town of Scotland Neck. The notice shall contain a brief statement of the purpose of the special election, the area in which it shall be held, and that a vote by a majority of those voting in favor of this Act will establish the Scotland Neck City Administrative Unit and its Administrative Board as herein set forth, and that an annual tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property, according to each One Hundred Dollars ($100.00) valuation, the rate to be fixed by the Board, will be levied as a supple-

validity and an injunction against the implementation of Chapter 31. Scotland Neck City Board of Education was added as a defendant in August 1969, and the Attorney General of North Carolina was added as a defendant in November 1969. On August 25, 1969, the District Court issued a temporary injunction restraining the implemen-

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mental tax in the Town of Scotland Neck, for the purpose of supplementing any lawful public school budgetary item. A new registration of voters shall not be required and in all respects the laws and regulations under which the municipal elections of the Town of Scotland Neck are held shall apply to said special election. The governing authority of the Town of Scotland Neck shall have the authority to enact reasonable rules and regulations for the necessary election books, records and other documents for such special election and to fix the necessary details of said special election.

Section 8. In said referendum or special election a ballot in form substantially as follows shall be used: VOTE FOR ONE:

( ) FOR creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and for supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

( ) AGAINST creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and against supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

If a majority of the qualified voters voting at such referendum or special election vote in favor of establishing Scotland Neck City Administrative Unit, for creation of administrative Board to operate public schools of said Unit and for special supplemental tax as herein set forth, then this Act shall become effective and operative as to all its provisions upon the date said special election results are canvassed and the result judicially determined, otherwise to be null and void. The expense of said referendum or special election shall be paid by the governing authority of the Town of Scotland Neck but if said Unit and Board are established, then said Town of Scotland Neck shall be reimbursed by the Board for said expense as soon as possible.

Section 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Section 10. This Act shall be in full force and effect according to its provisions from and after its ratification.

tation of Chapter 31, and thereafter on May 23, 1970, made the injunction permanent. The District Court reasoned that Chapter 31 was unconstitutional because it would create a refuge for white students and would interfere with the desegregation of the Halifax County school system.

It is clear that Chapter 31 is not unconstitutional on its face. But a facially constitutional statute may in the context of a given fact situation be applied unfairly or for a discriminatory purpose in violation of the equal protection clause of the Fourteenth Amendment. *Yick Wo* v. *Hopkins*, 118 U.S. 356 (1886). We cannot judge the validity of the statute in vacuo but must examine it in relation to the problem it was meant to solve. *Poindexter* v. *Louisiana Financial Assistance Commission*, 275 F. Supp. 833 (E.D. La. 1967).

I.

The History of School Desegregation in Halifax County and the Attempts to Secure a Separate School District for the City of Scotland Neck

For many years until 1936, the City of Scotland Neck was a wholly separate school district operating independently of the Halifax County school system into which it was then merged. Both the elementary and the high school buildings presently in use in Scotland Neck were constructed prior to 1936 and were financed by city funds.

Halifax County operated a completely segregated dual school system from 1936 to 1965. In 1965, Halifax County adopted a freedom-of-choice plan. Little integration resulted during the next three years. Shortly after the Supreme Court decision in *Green* v. *County School Board of New Kent County*, 391 U.S. 430, in May of 1968, the Halifax County Board of Education requested the North Carolina Department of Public Instruction to survey their schools and to make recommendations regarding desegregation of the school system.

In July 1968, the Justice Department sent a "notice letter" to the Halifax County Board notifying them that

they had not disestablished a dual school system and that further steps would be necessary to comply with *Green*. After negotiations with the Justice Department, the Halifax County Board agreed informally to disestablish their dual school system by the beginning of the 1969-70 school year, with a number of interim steps to be taken in the 1968-69 school year. As part of the interim steps, the seventh and eighth grades were transferred from the Brawley School, an all-black school located just outside the city limits of Scotland Neck, to the Scotland Neck School, previously all-white.

The results of the North Carolina Department of Public Instruction survey were published in December of 1968. It recommended an interim plan and a long range plan. The interim plan proposed the creation of a unitary school system through a combination of geographic attendance zones and pairing of previously all-white schools with previously all-black schools. Scotland Neck School was to be paired with Brawley School, grades 1-4 and 8-9 to attend Brawley and grades 5-6 and 10-12 to attend Scotland Neck. The long range plan called for the building of two new consolidated high schools, each to serve half of the geographic area composing the Halifax County school district. The Halifax County Board of Education declined to implement the plan proposed by the Department of Public Instruction and the Justice Department filed suit in July 1969.

Paralleling this history of school segregation in the Halifax County school system is a history of attempts on the part of the residents of Scotland Neck to obtain a separate school district. The proponents of a separate school district began to formulate their plans in 1963, five years prior to the *Green* decision and two years prior to the institution of freedom-of-choice by the Halifax County Board. They were unable to present their plan in the form of a bill prior to the expiration of the 1963 session of the North Carolina Legislature, but a bill was introduced in the 1965 session which would have created a separate school district composed of Scotland Neck and the four surrounding townships, funded partially through local supplemental property taxes. The bill

did not pass and it was the opinion of many of the Scotland Neck residents that its defeat was the result of opposition of individuals living outside the city limits of Scotland Neck.

At the instigation of the only Halifax County Board of Education member who was a resident of Scotland Neck, a delegation from the Halifax County schools attempted in 1966 to get approval for the construction of a new high school facility in Scotland Neck to be operated on a completely integrated basis. The proposal was not approved by the State Division of School Planning.

After visiting the smallest school district in the state to determine the economic feasibility of creating a separate unit for the City of Scotland Neck alone, the proponents of a separate school district again sponsored a bill in the Legislature. It was this bill which was eventually passed on March 31, 1969, as Chapter 31 of the Session Laws of 1969.

II.

The Three Purposes of Chapter 31

The District Court found that the proponents of a special school district had three purposes in mind in sponsoring Chapter 31 and the record supports these findings. First, they wanted more local control over their schools. Second, they wanted to increase the expenditures for their schools through local supplementary property taxes. Third, they wanted to prevent anticipated white fleeing of the public schools.

Local control and increased taxation were thought necessary to increase the quality of education in their schools. Previous efforts to upgrade Scotland Neck Schools had been frustrated. Always it seemed the needs of the County came before Scotland Neck. The only county-wide bond issue passed in Halifax County since 1936 was passed in 1957. Two local school districts operating in Halifax County received a total of $1,020,000 from the bond issue and the Halifax County system received $1,980,000. None of the money received by Halifax County was spent on schools within the city limits

of Scotland Neck. If Scotland Neck had been a separate school district at the time, it would have received $190,000 as its proportionate share of the bond issue. The Halifax County system also received $950,000 in 1963 as its proportionate share of the latest state-wide bond issue. None of this money was spent or committed to any of the schools within the city limits of Scotland Neck. Halifax County has reduced its annual capital outlay tax from 63 cents per $100 valuation in 1957 to 27.5 cents per $100 valuation in the latest fiscal year. In order for the referendum to pass under the terms of Chapter 31, the voters of Scotland Neck had to approve not only the creation of a separate school district but in addition had to authorize a local supplementary property tax not to exceed 50 cents per $100 valuation per year. Despite such a political albatross the referendum was favorable, and moreover, the supplementary tax was levied by the Scotland Neck Board at the full 50 cent rate.

III.

White Fleeing—The Questionable Third Purpose

But it is not the permissible first purpose or the clearly commendable second purpose which caused the District Court to question the constitutionality of Chapter 31. It is rather the third purpose, a desire on the part of the proponents of Chapter 31 to prevent, or at least diminish, the flight of white students from the public schools, that concerned the District Court. The population of Halifax County is predominantly black. The population of Scotland Neck is approximately 50 percent black and 50 percent white, and the District Court found that the pupil ratio by race in the schools would have been 57.3 percent white to 42.7 percent black.

A number of decisions have mentioned the problem of white flight following the integration of school systems which have a heavy majority of black students. *Monroe* v. *Board of Commissioners of the City of Jackson*, 391 U.S. 450, 459 (1968); *Brunson* v. *Board of Trustees of School District No. 1 of Clarendon County*, —— F.2d —— (4th Cir. 1970); *Walker* v. *County School Board*

of Brunswick County, 413 F.2d 53 (4th Cir. 1969); *Anthony* v. *Marshall County Board of Education*, 409 F.2d 1287 (5th Cir. 1969). All of these cases hold that the threat of white flight will not justify the continuing operation of a dual school system. But it has never been held by any court that a school board (or a state) may not constitutionally consider and adopt measures for the purpose of curbing or diminishing white flight from a unitary school system. Indeed it seems obvious that such a purpose is entirely consistent with and may help implement the *Brown* principle. It is not the purpose of preventing white flight which is the subject of judicial concern but rather the prices of achievement. If the effect of Chapter 31 is to continue a dual school system in Halifax County, or establish one in Scotland Neck, the laudable desire to stem an impending flow of white students from the public schools will not save it from constitutional infirmity. But if Chapter 31 does not have that effect, the desire of its proponents to halt white flight will not make an otherwise constitutional statute unconstitutional.

In considering the effect of Chapter 31 on school desegregation in Halifax County and Scotland Neck, it is important to distinguish the effect of Chapter 31 from the effect of a transfer plan adopted by the Scotland Neck Board of Education. The effect of the transfer plan was to substantially increase the percentage of white students in the Scotland Neck schools. But the transfer plan is solely the product of the Scotland Neck Board of Education and not Chapter 31. Therefore the effect of the transfer plan has no relevance to the question of the constitutionality of Chapter 31.[3]

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[3] Appellees argue that the creation of the transfer plan is evidence that the intended effect of Chapter 31 was to preserve the previous racial makeup of the Scotland Neck schools. We disagree.

We are concerned here with the intent of the North Carolina Legislature and not the intent of the Scotland Neck Board. In determining legislative intent of an act such as Chapter 31, it is appropriate to consider the reason that the proponents of the act desired its passage if it can be inferred that those reasons were made known to the Legislature. There is evidence in the record to show that the three purposes that the District Court found were

The District Court held that the creation of a separate Scotland Neck school district would unconstitutionally interfere with the implementation of a plan to desegregate the Halifax County schools adopted by the Halifax County Board of Education. We hold that the effect of the separation of the Scotland Neck schools and students on the desegregation of the remainder of the Halifax County system is minimal and insufficient to invalidate Chapter 31. During the 1968-69 school year, there were 10,655 students in the Halifax County Schools, 8,196 (77%) were black, 2,357 (22%) were white, and 102 (1%) were Indian. Of this total, 605 children of school age, 399 white and 296 black, lived within the city limits of Scotland Neck. Removing the Scotland Neck students from the Halifax County system would have left 7,900 (80%) black students, 1,958 (19%) white students, and 102 (1%) Indian students. This is a shift in the ratio of black to white students of only 3 percent, hardly a substantial change. Whether the Scotland Neck students remain within the Halifax County system or attend separate schools of their own, the Halifax County schools will have a substantial majority of black students. Nor would there be a per pupil decrease in the proceeds from the countywide property taxes available in the remaining Halifax County system. The county tax is levied on all property in the county and distributed among the various school districts in the county on a per pupil basis. In addition, the Superintendent of Schools for the Halifax County system testified that there would be no decrease in teacher-pupil ratio in the remaining Halifax County system and in fact that in a few special areas, such as speech therapy, the teacher-pupil ratio may actually increase.

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intended by the proponents of Chapter 31 were presented to the Legislature. However, there is nothing in the record to suggest that the Legislature had any idea that the Scotland Neck Board would adopt a transfer plan after the enactment of Chapter 31 which would have the effect of increasing the percentage of white students.

We will discuss the transfer plan later in a separate part of the opinion.

Nor can we agree with the District Court that Chapter 31 creates a refuge for the white students of the Halifax County system. Although there are more white students than black students in Scotland Neck, the white majority is not large, 57.3 percent white and 42.6 percent black. Since all students in the same grade would attend the same school, the system would be integrated throughout. There is no indication that the geographic boundaries were drawn to include white students and exclude black students as there has been in other cases where the courts have ordered integration across school district boundaries. *Haney* v. *County Board of Education of Sevier County*, 410 F.2d 920 (8th Cir. 1969). The city limits provide a natural geographic boundary. There is nothing in the record to suggest that the greater percentage of white students in Scotland Neck is a product of residential segregation resulting in part from state action. See *Brewer* v. *School Board of the City of Norfolk*, 397 F.2d 37 (4th Cir. 1968).

From the history surrounding the enactment of Chapter 31 and from the effect of Chapter 31 on school desegregation in Halifax County, we conclude that the purpose of Chapter 31 was not to invidiously discriminate against black students in Halifax County and that Chapter 31 does not violate the equal protection clause of the Fourteenth Amendment.

Appellees urge in their brief that conceptually the way to analyze this case is to "view the results of severance as if it were part of a desegregation plan for the original system." We do not agree. The severance was not part of a desegregation plan proposed by the school board but was instead an action by the Legislature redefining the boundaries of local governmental units. If the effect of this act was the continuance of a dual school system in Halifax County or the establishment of a dual system in Scotland Neck it would not withstand challenge under the equal protection clause, but we have concluded that it does not have that effect.

But assuming for the sake of argument that the appellees' method of analysis is correct, we conclude that the severance of Scotland Neck students would still

withstand constitutional challenge. Although it is not entirely clear from their brief, appellants' apparent contention is that the variance in the ratio of black to white students in Scotland Neck from the ratio in the Halifax County system as a whole is so substantial that if Scotland Neck was proposed as a geographic zone in a desegregation plan, the plan would have to be disapproved. The question of "whether, as a constitutional matter, any particular racial balance must be achieved in the schools" has yet to be decided by the courts. *Northcross* v. *Board of Education of Memphis*, —— U.S. ——, 90, S. Ct. 891, 893 (1970) (Burger, C.J., concurring). In its first discussion of remedies for school segregation, *Brown* v. *Board of Education of Topeka*, 349 U.S. 294 (1955) (Brown II), the Supreme Court spoke in terms of "practical flexibility" and "reconciling public and private needs." 349 U.S. at 300. In *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968), the court made it clear that the school board has the burden of explaining its preference for a method of desegregation which is less effective in disestablishing a dual school system than another more promising method. Even if we assume that a more even racial balance throughout the schools of Halifax County would be more effective in creating a unitary school system, we conclude that the deviation is adequately explained by the inability of people of Scotland Neck to be able to increase the level of funding of the schools attended by their children when the geographic area served by those schools extended beyond the city limits of Scotland Neck.

Our conclusion that Chapter 31 is not unconstitutional leaves for consideration the transfer plan adopted by the Scotland Neck School Board. The transfer plan adopted by the Board provided for the transfer of students from the remaining Halifax County system into the Scotland Neck system and from the Scotland Neck system into the Halifax County system. Transfer into the Scotland Neck system were to pay $100 for the first child in a family, $25 for the next two children in a family, and no fee for the rest of the children in a family. As a result of this transfer plan, 350 white students and 10 black students applied for transfer into the Scotland Neck system, and

44 black students applied for transfer out of the system. The net result of these transfers would have been to have 74 percent white students and 26 percent black students in the Scotland Neck system. We conclude that these transfers would have tended toward establishment of a resegregated system and that the transfer plan violates the equal protection clause of the Fourteenth Amendment.[4] See *Monroe* v. *Board of Commissioners of the City of Jackson*, 391 U.S. 450 (1968).

We reverse the judgment of the District Court holding Chapter 31 unconstitutional, and remand to the District Court with instructions to dissolve its injunction. The District Court will retain jurisdiction to consider plans of integration proposed by Halifax County Board of Education and by Scotland Neck Board of Education.

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[4] Perhaps it should be noted that in the school board's amended answer filed on September 3, 1969, it withdrew the original transfer plan and represented to the District Court that it intended to allow only such transfers as "may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court."

APPENDIX E

JUDGMENT

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 14,929

UNITED STATES OF AMERICA, AND PATTIE BLACK COTTON, EDWARD M. FRANCIS, PUBLIC SCHOOL TEACHERS OF HALIFAX COUNTY, ET AL., APPELLEES

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, A BODY CORPORATE, APPELLANT

Appeal from the United States District Court for the Eastern District of North Carolina

This cause came on to be heard on the record from the United States District Court for the Eastern District of North Carolina, and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court appealed from, in this cause, be, and the same is hereby, reversed; and the case is remanded to the United States District Court for the Eastern District of North Carolina, at Wilson, with instructions to dissolve its injunction and retain jurisdiction to consider plans of integration proposed by Halifax County Board of Education and by Scotland Neck Board of Education.

SAMUEL W. PHILLIPS,
Clerk.

A True Copy, Teste:

SAMUEL W. PHILLIPS,
Clerk.

By DIANE HUDSON,
Deputy Clerk.

APPENDIX B

United States Court of Appeals for the Fourth Circuit

No. 14552

PECOLA ANNETTE WRIGHT, ET AL., APPELLEES

v.

COUNCIL OF THE CITY OF EMPORIA AND THE MEMBERS THEREOF, AND SCHOOL BOARD OF THE CITY OF EMPORIA AND THE MEMBERS THEREOF, APPELLANTS

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond

ROBERT R. MERHIGE, JR., District Judge

Argued October 8, 1970—Decided March 23, 1971

Before HAYNSWORTH, Chief Judge, BOREMAN, BRYAN, WINTER, and CRAVEN, Circuit Judges sitting en banc *

John F. Kay, Jr., and *D. Dortch Warriner* (*Warriner, Outten, Slagle & Barrett;* and *Mays, Valentine, Davenport & Moore* on brief) for Appellants, and *S. W. Tucker* (*Henry L. Marsh, III*, and *Hill, Tucker & Marsh;* and *Jack Greenberg, James M. Nabrit, III*, and *Norman Chachkin* on brief) for Appellees.

CRAVEN, *Circuit Judge:* In this case and two others now under submission en banc we must determine the extent of the power of state government to redesign the geographic boundaries of school districts.[1] Ordinarily, it would seem to be plenary but in school districts with a history of racial segregation enforced through state ac-

* Judge Sobeloff did not participate. Judge Butzner disqualified himself because he participated as a district judge in an earlier stage of this case.

[1] The other two cases are *United States* v. *Scotland Neck City Board of Education*, —— F. 2d ——, Nos. 14929 and 14930 (4th Cir. ——, 1971) and *Turner* v. *Littleton-Lake Gaston School District*, —— F. 2d ——, No. 14990 (4th Cir. ——, 1971).

tion, close scrutiny is required to assure there has not been gerrymandering for the purpose of perpetuating invidious discrimination.

Each of these cases involve a county school district in which there is a substantial majority of black students out of which was carved a new school district comprised of a city or a city plus an area surrounding the city. In each case, the resident students of the new city unit are approximately 50 percent black and 50 percent white. In each case, the district court enjoined the establishment of the new school district. In this case, we reverse.

I

If legislation creating a new school district produces a shift in the racial balance which is great enough to support an inference that the purpose of the legislation is to perpetuate segregation, and the district judge draws the inference, the enactment falls under the Fourteenth Amendment and the establishment of such a new school district must be enjoined. See *Gomillion* v. *Lightfoot*, 364 U.S. 399 (1960). Cf. *Haney* v. *County Board of Education of Sevier County*, 410 F. 2d 920 (8th Cir. 1969); *Burleson* v. *County Board of Election Commissioners of Jefferson County*, 308 F. Supp. 352 (E.D. Ark.) aff'd —— F. 2d ——, No. 20228 (8th Cir. Nov. 18, 1970). But where the shift is merely a modification of the racial ratio rather than effective resegregation the problem becomes more difficult.

The creation of new school districts may be desirable and/or necessary to promote the legitimate state interest of providing quality education for the state's children. The refusal to allow the creation of any new school districts where there is any change in the racial makeup of the school districts could seriously impair the state's ability to achieve this goal. At the same time, the history of school integration is replete with numerous examples of actions by state officials to impede the mandate of *Brown* v. *Board of Education*, 349 U.S. 294 (1955) (*Brown II*). There is serious danger that the creation of new school districts may prove to be yet an-

other method to obstruct the transition from racially separated school systems to school systems in which no child is denied the right to attend a school on the basis of race. Determining into which of these two categories a particular case fits requires a careful analysis of the facts of each case to discern the dominant purpose of boundary realignment. If the creation of a new school district is designed to further the aim of providing quality education and is attended secondarily by a modification of the racial balance, short of resegregation, the federal courts should not interfere. If, however, the primary purpose for creating a new school district is to retain as much of separation of the races as possible, the state has violated its affirmative constitutional duty to end state supported school segregation. The test is much easier to state than it is to apply.

II

Emporia became a city of the so-called second class on July 31, 1967, pursuant to a statutory procedure established at least as early as 1892. See 3 Va. Code § 15.1-978 to -998 (1950); Acts of the Assembly 1891-92, ch. 595. Prior to that time it was an incorporated town and as such was part of Greensville County. At the time city status was attained Greensville County was operating public schools under a freedom of choice plan approved by the district court, and *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968), invalidating freedom of choice unless it "worked," could not have been anticipated by Emporia, and indeed, was not envisioned by this court. *Bowman* v. *County School Board of Charles City County* 382 F. 2d 326 (4th Cir. 1967). The record does not suggest that Emporia chose to become a city in order to prevent or diminish integration. Instead, the motivation appears to have been an unfair allocation of tax revenues by county officials.

One of the duties imposed on Emporia by the Virginia statutes as a city of the second class was to establish a school board to supervise the public education of the city's children. Under the Virginia statutes, Emporia had the option of operating its own school system or to

work out one of a number of alternatives under which its children would continue to attend school jointly with the county children. Emporia considered operating a separate school system but decided it would not be practical to do so immediately at the time of its independence. There was an effort to work out some form of joint operation with the Greensville County schools in which decision making power would be shared. The county refused. Emporia finally signed a contract with the county on April 10, 1968, under which the city school children would attend schools operated by the Greensville County School Board in exchange for a percentage of the school system's operating cost. Emporia agreed to this form of operation only when given an ultimatum by the county in March 1968 that it would stop educating the city children mid-term unless some agreement was reached.

At the same time that the county was engaged in its controversy with Emporia about the means of educating the city children, the county was also engaged in a controversy over the elimination of racial segregation in the county schools. Until sometime in 1968, Greensville County operated under a freedom of choice plan. At that time the plaintiffs in this action successfully urged upon the district court that the freedom of choice plan did not operate to disestablish the previously existing dual school system and thus was inadequate under *Green* v. *County School Board of New Kent County, supra.* After considering various alternatives, the district court, in an order dated June 25, 1969, paired all the schools in Greensville County.

Also in June 1969, Emporia was notified for the first time by counsel that in all probability its contract with the county for the education of the city children was void under state law. The city then filed an action in the state courts to have the contract declared void and notified the county that it was ending its contractual relationship forthwith. Parents of city school children were notified that their children would attend a city school system. On August 1, 1969, the plaintiffs filed a supplemental complaint seeking an injunction against the City Council and the City School Board to prevent the estab-

lishment of a separate school district. A preliminary injunction against the operation of a separate system was issued on August 8, 1969. The temporary injunction was made permanent on March 3, 1969.[2]

The Emporia city unit would not be a white island in an otherwise heavily black county. In fact, even in Emporia there will be a majority of black students in the public schools, 52 percent black to 48 percent white. Under the plan presented by Emporia to the district court, all of the students living within the city boundaries would attend a single high school and a single grade school. At the high school there would be a slight white majority, 48 percent black and 52 percent white, while in the grade school there would be a slight black majority, 54 percent black and 46 percent white. The city limits of Emporia provide a natural geographic boundary for a school district.

The student population of the Greensville County School District without the separation of the city unit is 66 percent black and 34 percent white. The students remaining in the geographic jurisdiction of the county unit after the separation would be 72 percent black and 28 percent white. Thus, the separation of the Emporia students would create a shift of the racial balance in the remaining county unit of 6 percent. Regardless of whether the city students attend a separate school system, there will be a substantial majority of black students in the county system.

Not only does the effect of the separation not demonstrate that the primary purpose of the separation was to perpetuate segregation, but there is strong evidence to the contrary. Indeed, the district court found that Emporia officials had other purposes in mind. Emporia hired Dr. Neil H. Tracey, a professor of education at the University of North Carolina, to evaluate the plan adopted by the district court for Greensville County and compare it with Emporia's proposal for its own school system. Dr. Tracey said his studies were made with the under-

[2] The decision of the court below is reported as *Wright* v. *County School Board of Greensville County*, 309 F. Supp. 671 (E.D. Va. 1970).

standing that it was not the intent of the city to resegregate. He testified that the plan adopted for Greensville County would require additional expenditures for transportation and that an examination of the proposed budget for the Greensville County Schools indicated that not only would the additional expenditures not be forthcoming but that the budget increase over the previous year would not even keep up with increased costs due to inflation. Emporia on the other hand proposed increased revenues to increase the quality of education for its students and in Dr. Tracey's opinion the proposed Emporia system would be educationally superior to the Greensville system. Emporia proposed lower student teacher ratios, increased per pupil expenditures, health services, adult education, and the addition of a kindergarten program.

In sum, Emporia's position, referred to by the district court as "uncontradicted," was that effective integration of the schools in the whole county would require increased expenditures in order to preserve education quality, that the county officials were unwilling to provide the necessary funds, and that therefore the city would accept the burden of educating the city children. In this context, it is important to note the unusual nature of the organization of city and county governments in Virginia. Cities and counties are completely independent, both politically and geographically. See *City of Richmond* v. *County Board*, 199 Va. 679, 684 (1958); *Murray* v. *Roanoke*, 192 Va. 321, 324 (1951). When Emporia was a town, it was politically part of the county and the people of Emporia were able to elect representatives to the county board of supervisors. When Emporia became a city, it was completely separated from the county and no longer has any representation on the county board. In order for Emporia to achieve an increase in school expenditures for city schools it would have to obtain the approval of the Greensville County Board of Supervisors whose constituents do not include city residents.

Determining what is desirable or necessary in terms of funding for quality education is the responsibility of state and school district officers and is not for our deter-

mination. The question that the federal courts must decide is, rather, what is the primary purpose of the proposed action of the state officials. See *Developments in the Law—Equal Protection*, 82 Harv. L. Rev. 1065 (1969). Is the primary purpose a benign one or is the claimed benign purpose merely a coverup for racial discrimination? The district court must, of course, consider evidence about the need for and efficacy of the proposed action to determine the good faith of the state officials' claim of benign purpose. In this case, the court did so and found explicitly that "[t]he city clearly contemplates a superior quality education program. It is anticipated that the cost will be such as to require higher tax payments by city residents." 309 F. Supp. at 671. Notably, there was no finding of discriminatory purpose, and instead the court noted its satisfaction that the city would, if permitted, operate its own system on a unitary basis.

We think the district court's injunction against the operation of a separate school district for the City of Emporia was improvidently entered and unnecessarily sacrifices legitimate and benign educational improvement. In his commendable concern to prevent resegregation—under whatever guise—the district judge momentarily overlooked, we think, his broad discretion in approving equitable remedies and the practical flexibility recommended by *Brown II* in reconciling public and private needs. We reverse the judgment of the district court and remand with instructions to disolve the injunction.

Because of the possibility that Emporia might institute a plan for transferring students into the city system from the county system resulting in resegregation,[3] or that the hiring of teachers to serve the Emporia school system might result in segregated faculties, the district court is directed to retain jurisdiction.

Reversed and remanded.

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[3] A notice of August 31, 1969, invited applications from the county. Subsequently, the city assured the district court it would not entertain such applications without court permission.

SOBELOFF, *Senior Circuit Judge*, with whom WINTER, *Circuit Judge*, joins, dissenting and concurring specially: In respect to Nos. 14929 and 14930, *United States* v. *Scotland Neck City Board of Education*, —— F. 2d —— (4th Cir. 1971), and No. 14990, *Turner* v. *Littleton-Lake Gaston School District*, —— F. 2d —— (4th Cir. 1971), the two cases in which I participated, I dissent from the court's reversal in *Scotland Neck* and concur in its affirmance in *Littleton-Lake Gaston*. I would affirm the District Court in each of those cases. I join in Judge Winter's opinion, and since he has treated the facts analytically and in detail, I find it unnecessary to repeat them except as required in the course of discussion. Not having participated in No. 14552, *Wright* v. *Council of City of Emporia*, —— F. 2d —— (4th Cir. 1971), I do not vote on that appeal, although the views set forth below necessarily reflect on that decision as well, since the principles enunciated by the majority in that case are held to govern the legal issue common to all three of these school cases.

I

The history of the evasive tactics pursued by white communities to avoid the mandate of *Brown* v. *Board of Education*, 349 U.S. 294 (1955), is well documented. These have ranged from outright nullification by means of massive resistance laws[1] and open and occasionally violent defiance,[2] through discretionary pupil assignment

[1] *See Duckworth* v. *James*, 267 F. 2d 224 (4th Cir. 1959); *Bush* v. *Orleans Parish School Bd.*, 188 F. Supp. 916 (E.D. La. 1960), *aff'd per curiam*, 365 U.S. 569 (1961); *Bush* v. *Orleans Parish School Bd.*, 187 F. Supp. 42 (E.D. La. 1960), *aff'd Per curiam*, 365 U.S. 569 (1961); *Aaron* v. *McKinley*, 173 F. Supp. 944 (E.D. Ark. 1959); *aff'd sub nom., Faubus* v. *Aaron*, 361 U.S. 197 (1959); *James* v. *Almond*, 170 F. Supp. 331 (E.D. Va. 1959), *app. dis.*, 359 U.S. 1006 (1959); *Harrison* v. *Day*, 200 Va. 439, 106 S.E. 2d 636 (1959) (decided the same day as *James* v. *Almond*, *supra*).

[2] *See Cooper* v. *Aaron*, 358 U.S. 1 (1958); *Armstrong* v. *Board of Education of City of Birmingham, Ala.* 323 F. 2d 333 (5th Cir. 1963), *cert. denied sub nom., Gibson* v. *Harris*, 376 U.S. 908 (1964);

laws[3] and public tuition grants in support of private segregated schools,[4] to token integration plans parading under the banner "freedom-of-choice."[5] One by one these devices have been condemned by the Supreme Court:

> [T]he constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the *Brown* case can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation whether attempted "ingeniously or ingenuously." *Cooper* v. *Aaron*, 358 U.S. 1, 17 (1958).

Neither these agencies, nor school boards, nor local communities have the right to put roadblocks in the way of effective integration. The Court has declared that "the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools." *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19, 20 (1969).

Today, I fear, we behold the emergence of a further stratagem—the carving out of new school districts in order to achieve racial compositions more acceptable to the white community. The majority frankly acknowledges the "serious danger that the creation of new school district may prove to be yet another method to obstruct

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Brewer v. *Hoxie School District No. 46*, 238 F. 2d 91 (8th Cir. 1956); *Holmes* v. *Danner*, 191 F. Supp. 394 (M.D. Ga. 1961), *stay denied*, 364 U.S. 939 (1961).

[3] *See Northcross* v. *Board of Education of City of Memphis*, 302 F. 2d 818 (6th Cir. 1962); *Manning* v. *Board of Public Instruction*, 277 F. 2d 370 (5th Cir. 1960); *Gibson* v. *Board of Public Instruction, Dade County, Fla.*, 272 F. 2d 763 (5th Cir. 1959); *Orleans Parish School Board* v. *Bush*, 242 F. 2d 156 (5th Cir. 1957); *United States Commission on Civil Rights, Civil Rights USA—Public Schools, Southern States*, 2-17 (1962).

[4] *See Griffin* v. *County School Board of Prince Edward County*, 377 U.S. 218 (1964); *Hall* v. *St. Helena Parish School Board*, 197 F. Supp. 649 (E.D. La. 1961), *aff'd*, 368 U.S. 515 (1962).

[5] *See Green* v. *County School Board*, 391 U.S. 430 (1968); *Raney* v. *Board of Education*, 391 U.S. 443 (1968); *Monroe* v. *Board of Commissioners*, 391 U.S. 450 (1968).

the transition from racially separate school systems to school systems in which no child is denied the right to attend a school on the basis of race," *Emporia, supra* at 4. However, the court fashions a new and entirely inappropriate doctrine to avert that danger. It directs District Courts to weigh and assess the various purposes that may have moved the proponents of the new school district, with the objective of determining which purpose is dominant. District Courts are told to intercede *only* if they find that racial considerations were the *primary* purpose in the creation of the new school units.[6] I find no precedent for this test and it is neither broad enough nor rigorous enough to fulfill the Constitution's mandate. Moreover, it cannot succeed in attaining even its intended reach, since resistant white enclaves will quickly learn how to structure a proper record—shrill with protestations of good intent, all consideration of racial factors muted beyond the range of the court's ears.[7]

If challenged state action has a racially discriminatory effect, it violates the equal protection clause unless a compelling and overriding legitimate state interest is demonstrated. This test is more easily applied, more fully implements the prohibition of the Fourteenth Amendment and has already gained firm root in the law. The Supreme Court has explicitly applied this test to state criminal statutes which on their face establish racial classifications. In 1964, striking down a Florida criminal statute which forbade a man and woman of different races to "habitually live in and occupy in the nighttime

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[6] The majority's test as stated in *Emporia, supra*, is as follows: "Is the primary purpose a benign one or is the claimed benign purpose merely a cover-up for racial discrimination?"

[7] The impracticability of the majority's test is highlighted by the dilemma in which the District Judges found themselves in *Scotland Neck:* "In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck * * *. *United States* v. *Halifax County Board of Education*, 314 F. Supp. 65, 72 (E.D.N.C. 1970)."

the same room," the Court stated in an opinion written by Justice White:

> Normally, the widest discretion is allowed the legislative judgment * * *, and normally that judgment is given the benefit of every conceivable circumstance which might suffice to characterize the classification as reasonable rather than arbitrary and invidious. [Citations] But we deal here with a classification based upon the race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," *Bolling* v. *Sharpe*, 347 U.S. 497, 499; and subject to the most "rigid scrutiny," *Korematsu* v. *United States*, 323 U.S. 214, 216; and "in most circumstances irrelevant" to any constitutionally acceptable legislative purpose, *Hirabayashi* v. *United States*, 320 U.S. 810, 100.

McLaughlin v. *Florida*, 379 U.S. 184, 191-92 (1964). Thus, the Court held that the proper test to apply in that case was "whether there *clearly appears* in the relevant materials some *overriding* statutory purpose *requiring* the proscription of the specified conduct when engaged in by a white and a Negro, but not otherwise." *Id.* at 192 [emphasis added]. To the further argument that the Florida statute should be upheld because ancillary to and serving the same purpose as an anti-miscegenation statute presumed valid for the purpose of the case, the Court replied:

> There is involved here an exercise of the state police power which trenches upon the constitutionally protected freedom from invidious official discrimination based on race. Such a law, even though enacted pursuant to a valid state interest, bears a heavy burden of justification, as we have said, and will be upheld only if it is *necessary*, and not merely rationally related, to the accomplishment of a permissible state policy. *Id.* at 196 [emphasis added].

There were no dissents in the *McLaughlin* case. The two concurring opinions serve to underline and buttress the test applied by the majority. Justice Harlan, joining the Court's opinion, added:

> I agree with the Court * * * that necessity, not mere reasonable relationship, is the proper test, see *ante*, pp. 195-196. *NAACP* v. *Alabama*, 377 U.S. 288, 307-308; *Sala* v. *New York*, 334 U.S. 558, 562; *Martin* v. *Struthers*, 319 U.S. 141, 147; *Thornhill* v. *Alabama*, 310 U.S. 88, 96; *Schneider* v. *State*, 308 U.S. 147, 161, 162, 164; see *McGowan* v. *Maryland*, 366 U.S. 420, 466-467 (Frankfurter, J., concurring).
>
> The fact that these cases arose under the principles of the First Amendment does not make them inapplicable here. Principles of free speech are carried to the States only through the Fourteenth Amendment. The necessity test which developed to protect free speech against state infringement should be equally applicable in a case involving state racial discrimination—prohibition of which lies at the very heart of the Fourteenth Amendment.

Id. at 197. Justice Stewart, speaking for himself and Justice Douglas, expressed the view that the majority's test did not go far enough as applied to a *criminal* statute because no overriding state purpose *could* exist.

> * * * I cannot conceive of a valid legislative purpose under our Constitution for a state law which makes the color of a person's skin the test of whether his conduct is a criminal offense. * * * I think it is simply not possible for a state law to be valid under our Constitution which makes the criminality of an act depend upon the race of the actor.

Id. at 198.

Three years later the Court dealt with a Virginia statute prohibiting interracial marriages. The statute was determined to be unconstitutional under the *McLaughlin* test, expressed here in these terms:

> At the very least, the Equal Protection Clause demands that racial classifications, especially sus-

> pect in criminal statutes, be subjected to the "most rigid scrutiny," *Korematsu* v. *United States*, 323 U.S. 214, 216 (1944), and, if they are *ever* to be upheld, they must be shown to be *necessary* to the accomplishment of some permissible state objective, independent of the racial discrimination which it was the object of the Fourteenth Amendment to eliminate.
> * * *
>
> There is patently no legitimate *overriding* purpose independent of invidious racial discrimination which justifies this classification.

Loving v. *Virginia*, 388 U.S. 1, 11 (1967) [emphasis added]. Justice Stewart filed a separate concurring opinion—reiterating his belief that there could never be a sufficiently compelling state purpose to justify a criminal statute based on racial classification. *Id.* at 13.

Although *McLaughlin* and *Loving* dealt with criminal statutes and express racial classifications, numerous lower court decisions apply the strict "compelling" or "overriding" purpose standard in the civil area as well as the criminal, and extend its application to facially neutral state action which, in reality, is racially discriminatory in its effect. The definitive case is *Jackson* v. *Godwin*, 400 F. 2d 529 (5th Cir. 1968), in which Judge Tuttle meticulously and exhaustively examines the lower court cases, including those "which have struck down rules and regulations which on their face appear to be non-discriminatory but which *in practice and effect*, if not purposeful design, impose a heavy burden on Negroes and not on whites, and operate in a racially discriminatory manner." *Id.* at 538-39 [emphasis added]. He concludes his analysis with this formulation of the constitutional standard:

> In both the areas of racial classification and discrimination and First Amendment freedoms, we have pointed out that stringent standards are to be applied to governmental restrictions in these areas, and rigid scrutiny must be brought to bear on the justifications for encroachments on such rights. The State must strongly show some substantial and con-

> trolling interest which requires the subordination or limitation of those important constitutional rights, and which justifies their infringement, [citations]; and in the absence of such compelling justification the state restrictions are impermissible infringements of these fundamental and preferred rights. *Id.* at 541.

The most recent application of the "compelling and overriding state interest" test is to be found in the Fifth Circuit's decision in *Hawkins* v. *Town of Shaw*, F. 2d (5th Cir. 1971). The plaintiffs, Negro residents of Shaw, Mississippi, alleged racial discrimination by town officials in the provision of various municipal services. The District Court dismissed the complaint, applying a test akin to that used by the majority in this case: "If actions of public officials are shown to have rested upon rational considerations, irrespective of race or poverty, they are not within the condemnation of the Fourteenth Amendment, and may not be properly condemned upon judicial review." *Hawkins* v. *Town of Shaw*, 303 F. Supp. 1162, 1168 (N.D. Miss. 1969). The Fifth Circuit reversed, pointing to the standard set forth in *Jackson* v. *Godwin*, *supra*, and stating, "In applying this test, defendants' actions may be justified only if they show a compelling state interest." *Hawkins* v. *Town of Shaw*, F. 2d (5th Cir. 1971) (slip opinion at 3).

In *Hawkins* the Fifth Circuit specifically considered the relevance of the defendant's "intent," or "purpose" as the majority in our case would label it. Conceding that "the record contains no direct evidence aimed at establishing bad faith, ill will or an evil motive on the part of the Town of Shaw and its public officials," *Id.* at (slip opinion at 12), the court held: "Having determined that no compeling state interests can possibly justify the discriminatory *results* of Shaw's administration of municipal services, we conclude that a violation of equal protection has ocurred." *Id.* at (slip opinion at 13) [emphasis in original text].

Just as Shaw's administration of municipal services violates the constitutional guarantee of equal protection, so too does the creation of the new Scotland Neck School

District.[8] The challenged legislation carves an enclave, 57% white and 43% black, from a previously 22% white and 77% black school system.[9] No compelling or overriding state interest justifies the new district, and its formation has a racially discriminatory effect by allowing the white residents of Scotland Neck to shift their children from a school district where they are part of a 22% minority to one where they constitute a 57% majority.

The prevailing opinion draws comfort from the fact that the new school district, because all children in the same grade will attend the same school, will be "integrated throughout." I dare say a 100% white school district would also be "integrated throughout." The relevant question is what *change* in degree of integration has been effected by the creation of the new district. Here the change is an increase in the percentage of white pupils from 22% to 57%. The Constitution will no more tolerate measures establishing a ratio of whites to blacks which the whites find *more* acceptable than it will measures totally segregating whites from blacks. The 35% shift here is no less discriminatory because it is a shift from 22% to 57% than if it were one from 65% to 100%.[10]

The majority opinion makes the puzzling concession that:

> If the effect of this act was the continuance of a dual school system in Halifax County or the estab-

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[8] Since even the majority concedes that the Littleton-Lake Gaston School District must be enjoined as a racially discriminatory scheme in violation of the Fourteenth Amendment, I do not discuss the facts of that case.

[9] One percent of the pupils in Halifax County are Indians.

[10] Judge Winter properly emphasizes in his separate opinion that the effect of the new school districts must be measured by comparing "the racial balance in the preexisting unit with that in the new unit sought to be created, and that remaining in the preexisting unit after the new unit's creation." Focusing, as do I, on the 35% increase in the white student population of the new Scotland Neck School District, he quite correctly notes that "[a] more flagrant example of the creation of a white haven, or a more nearly white haven, would be difficult to imagine."

> lishment of a dual system in Scotland Neck it would not withstand challenge under the equal protection clause, but we have concluded that it does not have that effect.

The situation here is that the Act sets up in Halifax County two school systems, one with a 50:43 white to black ratio and the other with a 19:80 white to black ratio, in place of one school system with a 22:77 white to black ratio. Thus, the Act constructs a dual school system in Halifax County by the simple expedient of labeling the two sets of schools as separate districts. The majority does not explain why the Act can *create* a dual school system in Halifax County if it could not *continue* a dual system there. Nor do they explain why the Act can *establish* a dual school system in Halifax County if it could not *establish* one in Scotland Neck. Obviously no explanation is possible and the legislation severing the Scotland Neck School District fails to meet the test of the equal protection clause.

II

Even if I accepted the majority's formulation as the proper doctrine to control these cases, which I certainly do not, I think their test is misapplied in *Scotland Neck*. The court accepts at face value the defendants' assertions that local control and increased taxation were the dominant objectives to be fulfilled by the new district, with the ultimate goal of providing quality education to the students of Scotland Neck. The facts plainly are to the contrary and demonstrate that, in projecting the new district, race was the primary consideration. The District Court specifically found that a significant factor in the creation of the new school district was

> a desire on the part of the leaders of Scotland Neck to preserve a ratio of black to white students in the schools of Scotland Neck that would be acceptable to white parents and thereby prevent the flight of white students to the increasingly popular all-white private schools in the area.

United States v. *Halifax County Board of Education*, 314 F. Supp. 65, 72 (E.D.N.C. 1970). The defendants do not contest this finding.[11]

What starkly exposes the true purpose impelling the redistricting adventure and belies the professions of lofty objectives is the transfer plan initially adopted by the Scotland Neck City Board of Education.[12] Under that plan, parents residing within Halifax County but outside the newly fashioned district could place their children in the Scotland Neck Schools by paying a fee ranging from $100 to $125. The use of transfer plans of this nature as devices to thwart the mandate of *Brown* v. *Board of Education*, *supra*, has not been uncommon,[13] and the majority here has no difficulty in recognizing that the Scotland Neck transfer plan was a contrivance to perpetuate segregation. Initial applications for transfer under the plan were received from 350 white and only 10 black children in Halifax County. The net result would have been a racial mix of 74% white, 26% black in the Scotland Neck School District, contrasting with 82% black, 17% white, 1% Indian, in the rest of Halifax County. Thus the transfer plan would have operated directly contrary to the obligation to desegregate the schools

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[11] The defendants assert instead that the prevention of white flight is a legitimate goal. However, the Supreme Court in *Monroe* v. *Board of Commissioners*, 391 U.S. 450, 459 (1968), has directly addressed itself to this argument, and rejected it out of hand: "We are frankly told in the Brief that without the transfer option it is apprehended that white students will flee the school system altogether. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them." *Brown II* at 300.

See also Brunson v. *Board of Trustees of School District No. 1 of Clarendon County*, 429 F. 2d 820 (4th Cir. 1970); *Anthony* v. *Marshal County Board of Education*, 409 F. 2d 1287 (5th Cir. 1969). The defendants' candid admission serves only to emphasize the dominant racial considerations behind the whole scheme.

[12] Although the School Board later abandoned the transfer plan, its initial adoption nevertheless reflects the Board's intentions.

[13] *See Monroe* v. *Board of Commissioners*, 391 U.S. 450 (1968); *Gross* v. *Board of Education*, 373 U.S. 683 (1963).

of Halifax County and distinctly evidences the design of the Scotland Neck School Board to bring into existence a white haven.

Curiously enough, despite its condemnation of the transfer plan, the court declares the plan not relevant in assessing the intent of the North Carolina legislature in enacting Chapter 31, since there is no evidence in the record to show that the legislative body knew a transfer plan would be effected. This reasoning is fallacious for legislators are not so naive and, in any event, are chargeable with the same motivations as the local communities concerned. The relevant inquiry under the majority's test is into the purposes for which state action was taken and, as Judge Winter observes in his separate opinion, when dealing with statutes designed to affect local communities, one must look to the localities to determine the purposes prompting the legislation.[14]

The size of the new school district in Scotland Neck is also a crucial factor to be taken into account in judging the genuineness of the alleged goal of quality education. The Report of the Governor's Study Commission on the Public School System of North Carolina favors the *consolidation* of school districts to increase efficiency in the operations of the public schools, and suggests 9,000-10,000 as a desirable pupil population, with 3,500 to 4,000 as a minimum. Scotland Neck's minuscule new school district for 695 pupils—one fifth of the suggested minimum—is an anomaly that runs directly counter to the recommendation of the Study Commission that schools be merged into larger administrative units. Moreover, if quality education were the true objective and Scotland Neck resdients were deeply concerned with increasing revenue to improve their schools,

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[14] Moreover, as the District Court noted, local newspapers, including the *Raleigh News and Observer*, suggested that racial considerations, and not a concern for better educational, motivated the legislation. For example, on February 14, 1969, a month before Chapter 31 was enacted, the *Raleigh News and Observer* commented editorially that the bill provided for an "educational island" dominated by whites and on February 22, 1969, suggested that if the bill passed, it would encourage other school districts to resort to similar legislation.

one might have expected that in-depth consideration would have been given to the financial and educational implications of the new district. However, the District Court found that:

> [t]here were no studies made prior to the introduction of the bill with respect to the educational advantages of the new district, and there was no actual planning as to how the supplement would be spent although some people assumed it would be spent on teachers' supplements.

United States v. *Halifax County Board of Education*, 314 F. Supp. at 74.

Also highly relevant in assessing the dominant purpose is the timing of the legislation splintering the Halifax County school system. During the 1967-68 school year the Halifax County School District maintained racially identifiable schools, and only 46 of the 875 students attending the Scotland Neck school were black. The next school year, under prodding by the Department of Justice, the Halifax County Board of Education assigned to the Scotland Neck school the entire seventh and eighth grades from an adjacent all-black county school, and promised to desegregate completely by 1969-70. A survey by the North Carolina State Department of Education in December 1968 recommended an integration plan which provided that 690 black and 325 white students should attend the Scotland Neck school. It was only then that the bill which later became Chapter 31 was introduced into the General Assembly of North Carolina in 1969. The fact that the Scotland Neck School District was not formed until the prospects for a unitary school system in Halifax County became imminent leads unmistakably to the conclusion that race was the dominant consideration and that the goal was to achieve a degree of racial apartheid more congenial to the white community.[15]

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[15] It is also noteworthy that while the Scotland Neck community claims that it had not been accorded a fair allocation of county school funds over a period of years, this apparently became intolerable only when the Department of Justice exerted pressure for immediate action to effectuate integration.

III

The court's incongruous holdings in these two cases, reversing the District Court in *Scotland Neck*, while affirming in the twin case, *Littleton-Lake Gaston*, cannot be reconciled. The uncontested statistics presented in *Scotland Neck* speak even louder in terms of race than the comparable figures for *Littleton-Lake Gaston*. The white community in Scotland Neck has sliced out a predominantly white school system from on overwhelmingly black school district. By contrast, the white community in Littleton-Lake Gaston was more restrained, gerrymandering a 46% white, 54% black, school unit from a county school system that was 27% white, 67% black.[16] The majority attempts to escape the inevitable implications of these statistics by attributing to the North Carolina legislature, which severed the Scotland Neck School District on March 3, 1969, benevolent motivation and obliviousness to the racial objectives of the local white community. Yet the majority unhesitatingly finds a discriminatory purpose in the similar excision of the new Littleton-Lake Gaston School District by the same legislators only one month later, on April 11, 1969. The earlier statute no less than the later provided a refuge for white students and maximized preservation of segregated schools. The record and the District Court's opinion in *Scotland Neck*, no less than the record and the opinion in *Littleton-Lake Gaston*, are replete with evidence of discriminatory motivations. On their facts the two cases are as alike as two peas in a pod.

Judge Bryan soundly recognizes the discordance in the two holdings of the majority. The resolution he proposes is to reverse in both cases. This would indeed cure the inconformity, but at the cost of compounding the error. The correction called for lies in the opposite direction—affirmance in both cases.

---

[16] Six percent of the pupils in Warren County are Indian.

IV

If, as the majority directs, federal courts in this circuit are to speculate about the interplay and the relative influence of divers motives in the molding of separate school districts out of an existing district, they will be trapped in a quigmire of litigation. The doctrine formulated by the court is ill-conceived, and surely will impede and frustate prospects for successful desegregation. Whites in counties heavily populated by blacks will be encouraged to set up, under one guise or another, independent school districts in areas that are or can be made predominantly white.

It is simply no answer to a charge of racial discrimination to say that it is designed to achieve "quality education." Where the effect of a new school district is to create a sanctuary for white students, for which no compelling and overriding jurisdiction can be offered, the courts should perform their constitutional duty and enjoin the plan, notwithstanding professed benign objectives.

Racial peace and the good order and stability of our society may depend more than some realize on a convincing demonstration by our courts that true equality and nothing less is precisely what we mean by our proclaimed ideal of "the equal protection of the laws." The palpable evasions portrayed in this series of cases should be firmly condemned and enjoined. Such examples of racial inequities do not go unheeded by the adversely affected group. They are noted and resented. The humiliations inflicted by such cynical maneuvers feed the fires of hostility and agravate the problem of maintaining peaceful race relations in the land. In this connection it is timely to bear in mind the admonition of the elder Mr. Justice Harlan, dissenting in *Plessy* v. *Ferguson*, 163 U.S. 537, 560 (1896);

> The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law.

I dissent from the reversal in Nos. 14929 and 14930, *United States* v. *Scotland Neck City Board of Education*, —— F. 2d —— (4th Cir. 1971), and concur in the affirmance in No. 14990, *Turner* v. *Littleton-Lake Gaston School District*, —— F. 2d —— (4th Cir. 1971).

ALBERT V. BRYAN, *Circuit Judge*, dissenting: For me there is here no warrant for a decision different from the *Scotland Neck* and *Emporia* determinations. This conclusion derives from the majority's exposition of the fact parallel of these cases with the circumstances of *Littleton-Lake Gaston*. The identicalness irresistibly argues a like disposition—reversal of the judgment on appeal.

WINTER, *Circuit Judge*, dissenting and concurring specially: I dissent from the majority's opinion and conclusion in No. 14,552, *Wright* v. *Council of City of Emporia*, —— F. 2d —— (4 Cir. 1971), and in Nos. 14929 and 14930, *United States* v. *Scotland Neck City Board of Education*, —— F. 2d —— (4 Cir. 1971). I concur in the judgment in No. 14990, *Turner* v. *Littleton-Lake Gaston School District*, —— F. 2d —— (4 Cir. 1971), and I can accept much of what is said in the majority's opinion. There is, however, a broader basis of decision than that employed by the majority on which I would prefer to rest.

Because the majority makes the decision in *Emporia* the basis of decision in *Scotland Neck* and distinguishes them from *Littleton-Lake Gaston*, I will discuss the cases in that order. I would conclude that the cases are indistinguishable, as does my Brother Bryan, although I would also conclude that each was decided correctly by the district court and that in each we should enjoin the carving out of a new school district because it is simply another device to blunt and to escape the ultimate reach of *Brown* v. *Board of Education*, 347 U.S. 483 (1954), and subsequent cases.

I

While the legal problem presented by these cases is a novel one in this circuit, I think the applicable legal standard is found in the opinion of the Supreme Court in Green v. County School Board of New Kent County, 391 U.S. 430 (1968). In rejecting a "freedom of choice" plan under the circumstances presented there, the Court articulated the duties of both a school board and a district court in implementing the mandate of *Brown*:

> The burden on a school board today is to come forward with a plan that promises realistically to work, *and promises realistically to work now.*
>
> * * * *
>
> Where the courts find the board to be acting in good faith and the proposed plan to have real prospects for dismantling the state-imposed dual system *"at the earliest possible date,"* then the plan may be said to provide effective relief. Of course, the availability to the board of other more promising courses of action may indicate a lack of good faith; *and at the least it places a heavy burden upon the board to explain its preference for an apparently less effective method.* [emphasis added.]

391 U.S. at 439.

In each of the instant cases, following a protracted period of litigation, a plan designed finally to institute a unitary school system was jeopardized by the attempt of a portion of the existing school district to break away and establish its own schools. I think the advocates of such a subdivision bear the "heavy burden" of persuasion referred to in *Green* because, as in that case, the dominant feature of these cases is the last-minute proposal of an alternative to an existing and workable integration plan. Factually, these cases are not significantly dissimilar from *Green*. Each act of secession would necessarily require the submission and approval of new integration plans for the newly-created districts, and thus each is tantamount to the proposal of a new

plan. And while the act giving rise to the alternative approach here is state legislation rather than a proposal of the local school board, the fact remains that the moving force in the passage of each piece of legislation [1] was of local origin. Few who have had legislative experience would deny that local legislation is enacted as a result of local desire and pressure. It is, therefore, to local activities that one must look to determine legislative intent.

Application of the "heavy burden" standard of *Green* to the instant case is also supported by considerations of policy. In an area in which historically there was a dual system of schools and at best grudging compliance with *Brown*, we cannot be too careful to search out and to quash devices, artifices and techniques furthered to avoid and to postpone full compliance with *Brown*. We must be assiduous in detecting racial bias masking under the guise of quality education or any other benevolent purpose. Especially must we be alert to ferret out the establishment of a white haven, or a relatively white haven, in an area in which the transition from racially identifiable schools to a unitary system has proceeded slowly and largely unwillingly, where its purpose is at least in part to be a white haven. Once a unitary system has been established and accepted, greater latitude in redefinition of school districts may then be permitted.

Given the application of the *Green* rationale, the remaining task in each of these cases is to discern whether the proposed subdivision will have negative effects on the integration process in each area, and, if so, whether its advocates have borne the "heavy burden" of persuasion imposed by *Green*.

II

EMPORIA SCHOOL DISTRICT

The City of Emporia, located within the borders of Greensville County, Virginia, became a city of the second

[1] In *Emporia*, the implementing legislation for the separation already existed; however, the local people alone made the choice to exercise the option which the statute provided.

class on July 31, 1967, pursuant to a statutory procedure dating back to the 19th Century. While it had the state-created right at that time to establish its own school district, it chose instead to remain within the Greensville County system until June, 1969. It is significant that earlier in this same month, more than a year after it had invalidated a "freedom of choice" plan for the Greensville County system, the district court ordered into effect a "pairing" plan for the county as a further step toward full compliance with *Brown* and its progeny.

The record amply supports the conclusion that the creation of a new school district for the City of Emporia would, in terms of implementing the principles of *Brown*, be "less effective" than the existing "pairing" plan for the county system. In the first place, the delay involved in establishing new plans for the two new districts cannot be minimized in light of the Supreme Court's statement in *Green* that appropriate and effective steps must be taken at once. See also *Carter* v. *West Feliciana School Board*, 396 U.S. 290 (1970); *Alexander* v. *Holmes County Bd. of Ed.*, 396 U.S. 19 (1969). Secondly, as the district court found, the separation of Emporia from Greensville County would have a substantial impact on the racial balance both within the county and within the city. Within the entire county, there are 3,759 students in a racial ratio of 34.1% white and 65.9% black. Within the city there are 1,123 students, 48.3% of whom are white and 51.7% are black. If the city is permitted to establish its own school system, the racial ratio in the remainder of the county will change to 27.8% white and 72.2% black.[2] To me, the crucial element in this shift is not that the 48.3%-51.7% white to black ratio in the

[2] As part of the establishment of the new system, the Emporia school board proposed a transfer plan whereby Emporia will accept county students upon payment of tuition. The record does not contain any projection of the number of county students who would avail themselves of the plan although in argument counsel was candid in stating that only white parents would be financially able to exercise the option. The transfer plan was quickly abandoned when it became apparent that it might not earn the approval of the district court.

town does not constitute the town a white island in an otherwise heavily black county and that a shift of 6% in the percentage of black students remaining in the county is not unacceptably large. Whenever a school area in which racial separation has been a historical fact is subdivided, one must compare the racial balance in the preexisting unit with that in the new unit sought to be created, and that remaining in the preexisting unit after the new unit's creation. A substantial shift in any comparable balances should be cause for deep concern. In this case the white racial percentage in the new unit will increase from 27.8% to 48.3%. To allow the creation of a substantially whiter haven in the midst of a small and heavily black area is a step backward in the integration process.

And finally, the subdivision of the Greensville County school district is "less effective" in terms of the principles of *Brown* because of the adverse psychological effects on the black students in the county which will be occasioned by the secession of a large portion of the more affluent white population from the county schools. If the establishment of an Emporia school district is not enjoined, the black students in the county will watch as nearly one-half the total number of white students in the county abandon the county schools for a substantially whiter system. It should not be forgotten that psychological factors, and their resultant effects on educational achievement, were a major consideration in the Supreme Court's opinion in *Brown*.

In my mind, the arguments advanced by the residents of Emporia in support of their secession from the county school system do not sustain the "heavy burden" imposed by *Green*. The essence of their position is that, by establishing their own schools over which they will exercise the controlling influence, they will be able to improve the quality of their children's education. They point to a town commitment to such a goal and, in particular, to a plan to increase educational revenues through increased local taxation. They also indicate that they presently have very little voice in the management of the county school system. Although, as the district court

found, the existence of these motives is not to be doubted, I find them insufficent in considering the totality of the circumstances.

While the district court found that educational considerations were *a* motive for the decision to separate, it also found that "race was a factor in the city's decision to secede." Considering the timing of the decision in relation to the ordering into effect of the "pairing" plan, as well as the initial proposal of a transfer plan, this finding is unassailable. *Green* indicates that the absence of good faith is an important consideration in determining whether to accept a less effective alternative to an existing plan of integration. The lack of good faith is obvious here.

When the educational values which the residents of Emporia hope to achieve are studied, it appears that the secession will have many deleterious consequences. As found by the district court, the high school in the city will be of less than optimum size. County pupils will be cut off from exposure to a more urban society. The remaining county system will be deprived of leadership ability formerly derived from the city. It will suffer from loss of the city's financial support, and it may lose teachers who reside in the city. To me, these consequences, coupled with the existence of the racial motive, more than offset the arguments advanced by the residents of Emporia. The separation, with its negative effects on the implementation of the principles of *Brown*, should be enjoined.

III

SCOTLAND NECK SCHOOL DISTRICT

As the majority's opinion recites, the history of resistance to school desegregation in the Halifax County school system parallels the history of the attempts on the part of the residents of Scotland Neck to obtain a separate school district. The significant fact is that in spite of otherwise apparently cogent arguments to justify a separate system, the separate system goal was not realized until, as the result of pressure from the United

States Department of Justice, the Halifax County Board agreed to transfer the seventh and eighth grade black students from the previously all-black Brawley School, outside the city limits of Scotland Neck, to the Scotland Neck School, previously all-white. Chapter 31 followed thereafter as soon as the North Carolina legislature met. It is significant also that the Halifax County Board reneged on its agreement with the Department of Justice shortly before the enactment of Chapter 31.

The same negative effects on achieving integration which are present in the Emporia secession are present here. Although the City of Scotland Neck has already submitted a plan for its school district, delay will result in devising such a plan for the remaining portion of Halifax County. The racial balance figures show that the existing county system has 8,196 (77%) black students, 2,357 (22%) white students, and 102 (1%) Indian students. Within the city system, there would be 399 (57.4%) white and 296 (42.6%) black, while the remaining county system would be comprised of 7,900 (80%) black, 1,958 (19%) white and 102 (1%) Indian. The difference between the percentage of white students within the existing system and the newly-created one for Scotland Neck is thus 35%. A more flagrant example of the creation of a white haven, or a more nearly white haven, would be difficult to imagine. The psychological effects on the black students cannot be overestimated.

The arguments advanced on behalf of Scotland Neck are likewise insufficient to sustain the burden imposed by *Green*. Even if it is conceded that one purpose for the separation was the local desire to improve the educational quality of the Scotland Neck schools, the record supports the conclusion of the district court that race was a major factor. If the basic purpose of Chapter 31 could not be inferred from the correlation of events concerning integration litigation and the attempt to secede, other facts make it transparent. As part of its initial plan to establish a separate system, Scotland Neck proposed to accept transfer students from outside the corporate limits of the city on a tuition basis. Under this transfer system, the racial balance in the Scotland Neck

area was 749 (74%) white to 262 (26%) black, and the racial balance in the rest of Halifax County became 7,934 (82%) black, 1,608 (17%) white, and 102 (1%) Indian.[3] This proposal has not yet been finally abandoned. In oral argument before us, counsel would not tell us forthrightly that this would not be done, but rather, equivocally indicated that the proposal would be revived if we, or the district court, could be persuaded to approve it. I cannot so neatly compartmentalize Chapter 31 and the transfer plan as does the majority, and conclude that one has no relevance to the other. To me, what was proposed, and still may be attempted, by those who provided the motivation for the enactment of Chapter 31 is persuasive evidence of what Chapter 31 was intended to accomplish.

In terms of educational values, the separation of Scotland Neck has serious adverse effects. Because Scotland Neck, within its corporate boundaries, lacked sufficient facilities even to operate a system to accommodate the only 695 pupils to be educated, it purchased a junior high school from Halifax County. This school is located outside of the corporate boundaries of Scotland Neck. The sale deprives the students of Halifax County, outside of Scotland Neck of a school facility. The record contains abundant, persuasive evidence that the best educational policy and the nearly unanimous opinion of professional educators runs contrary to the creation of a small, separate school district for Scotland Neck. A study by the State of North Carolina indicates that a minimally acceptable district has 3,500-4,000 pupils.

On the facts I cannot find the citizens of Scotland Neck motivated by the benign purpose of providing ad-

[3] There is apparent error in the computations made by the district court in this regard. The district court found that the net effect of the transfer plan would be to add 350 white students to the city system. Added to the resident white students (399), the total is 749, not 759 as indicated in the opinion of the district court. The district court's figure of 262 black students in the city under the transfer plan (a net loss of 34) appears correct. But when these two totals are subtracted from the figures given for the existing county system in 1968-1969 (2,357 white, 8,196 black and 102 Indian), the effects on the county are as shown above.

ditional funds for their schools; patently they seek to blunt the mandate of *Brown*. Even if additional financial support for schools was a substantial motive, the short answer is that a community should not be permitted to buy its way out of *Brown*. Here again, the "heavy burden" imposed by *Green* has not been sustained.

IV

LITTLETON-LAKE GASTON SCHOOL DISTRICT

The majority's opinion correctly and adequately discloses the legislative response to court-ordered compliance with *Brown* and its progeny. That response was the creation of the Warrenton City School District and the Littleton-Lake Gaston School District. The overall effect of the creation of the Littleton-Lake Gaston district, the proposed tuition transfer plan, and the creation of the Warrenton City district (an act enjoined by the district court and not before us) would be to permit more than 4 out of 5 white students to escape the heavily black schools of Warren County. Even without the transfer plan, the racial balance in the Littleton-Lake Gaston district would show nearly 20% more white students than in the existing Warren County unit. To permit the subdivision would be to condone a devastating blow to the progress of school integration in this area.

Despite the assertion of the benign motives of remedying long-standing financial inequities and the preservation of local schools, I agree with the majority that the "primary" purpose and effect of the legislation creating the Littleton-Lake Gaston school district was to carve out a refuge for white students and to preserve to the fullest possible extent segregated schools. Aside from questions of motivation, the record shows that the new district was established to accommodate a total of only 659 students, despite state policy to the contrary and expert opinion that its small size rendered it educationally not feasible. And, as the majority indicates, there is no evidence that the residents of the Littleton area have been deprived of their proportionate voice in the opera-

tion of the schools of Warren County. In short, there is a complete absence of persuasive argument in favor of the creation of the new district.

While I agree that the injunction should stand, I disagree that injunctive relief should be granted only when racial motivation was the "primary" motive for the creation of the new district. Consistent with *Green*, we should adopt the test urged by the government in *Scotland Neck*, i.e., to view the results of the severance as if it were a part of a desegregation plan for the original system—that is, to determine whether the establishment of a new district would, in some way, have an adverse impact on the desegregation of the overall system. By this test the injunction would stand in the *Littleton-Lake Gaston* case, as well as in each of the two other cases, because in each of the three there is at least some racial motivation for the separation and some not insubstantial alteration of racial ratios, some inherent delay in achieving an immediate unitary system in all of the component parts, and an absence of compelling justification for what is sought to be accomplished.

BUTZNER, *Circuit Judge:* This appeal involves the same case in which I decided questions concerning the school board's compliance with the Fourteenth Amendment when I served on the district court.* While the details differ, the same basic issues remain—the validity of measures taken to disestablish a dual school system, to create a unitary system, and to assign pupils and faculty to achieve these ends.

> Title 28 U.S.C. § 47 provides: "No judge shall hear or determine an appeal from the decision of a case or issue tried by him."

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* See *Wright* v. *County School Bd. of Greensville County, Va.*, 252 F. Supp. 378 (E.D. Va. 1966). Two other opinions were not published.

Recently, Judge Craven carefully examined this statute and the cases and authorities which cast light on it. He concluded that he should not sit on an appeal of a case in which he had participated as a district judge when the ultimate questions were the same: "what may a school board be compelled to do to dismantle a dual system and implement a unitary one, or how much school board action is enough?" See Swann v. Charlotte-Mecklenburg Bd. of Ed., 431 F. 2d 135, (4th Cir. 1970). Following the sound precedent established by Judge Craven, I believe that I must disqualify myself from participating in this appeal.

[Caption Omitted]

STAY OF MANDATE

The motion to stay our mandate pending application for certiorari is allowed on the following conditions:

(1) That appellees (in the district court) file their petition for writ of certiorari on or before May 21, 1971, and, if possible, prior thereto, and that said appellees proceed with all posible diligence to prosecute their petition to the end that it may be considered by the Supreme Court of the United States before the end of its current term;

(2) With the consent of the United States, the district court injunction is modified so as to allow certification and levy, but not the collection, of taxes for the Scotland Neck City Board of Education.

This 21st day of April, 1971.

FOR THE COURT:

/s/ J. Braxton Craven, Jr.
United States Circuit Judge

SUPREME COURT OF THE UNITED STATES

No. 70-130

UNITED STATES, PETITIONER,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION ET AL.

ORDER ALLOWING CERTIORARI. Filed October 12, 1971.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit is granted. The case is consolidated with No. 70-187 and a total of one and one half hours is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 70-187

PATTIE BLACK COTTON ET AL., PETITIONERS,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

ORDER ALLOWING CERTIORARI. Filed October 12, 1971.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit is granted. The case is consolidated with No. 70-130 and a total of one and one half hours is allotted for oral argument.

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839

October 14, 1971

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn says that: [1]

1. He is Superintendent of Schools of the Halifax County County School Administrative Unit, Halifax, N.C.
2. And that he has on October 7, 1971 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	White	Negro	Indian	Total
Aurelian Springs (K-8)	333	611	8	952
Bakers (1-8)	0	241	0	241
Brawley (1-9)	174	659	0	833
*Dawson (1-8)	32	405	0	437
Eastman (8-12)	1	686	70	757
Enfield (9-12)	34	433	0	467
Everetts (1-8)	264	415	0	679
**Hollister (1-7)	1	264	151	416
Inborden (1-8)	48	1035	0	1083
McIver (1-8)	0	508	0	508
Northwest at Wm. R. Davie (9-12)	249	632	0	881
Pittman (1-7)	1	421	2	424
Scotland Neck (10-12)	70	515	0	585
Thomas Shields (1-8)	37	227	0	264
Tillery Chapel (1-8)	9	214	0	223
White Oak (1-7)	2	319	23	344
	1255	7585	254	9094

* One Oriental student included in White

** One Spanish Surnamed American student included in White

[1] This affidavit is not part of the record in this case. However, petitioners have no objection to it, and therefore, it is included here for the Court's consideration.

/s/ W. Henry Overman
W. Henry Overman,
Superintendent

Sworn to and subscribed before me this 14th day of October, 1971.

/s/ Doris W. Netherland
Notary Public
My commission expires 9-9-75

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No. 1614

In the Supreme Court of the United States

OCTOBER TERM, 1970

70-130

UNITED STATES OF AMERICA, PETITIONER

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

ERWIN N. GRISWOLD,
Solicitor General,
JERRIS LEONARD,
Assistant Attorney General,
LAWRENCE G. WALLACE,
Deputy Solicitor General,
A. RAYMOND RANDOLPH, Jr.,
Assistant to the Solicitor General,
BRIAN K. LANDSBERG,
THOMAS M. KEELING,
Attorneys,
Department of Justice,
Washington, D.C. 20530.

INDEX

	Page
Opinions below	1
Jurisdiction	1
Question presented	2
Constitutional and statutory provisions involved	2
Statement	2
Reasons for granting the writ	7
Conclusion	13
Appendix A	1a
Appendix B	19a
Appendix C	56a
Appendix D	62a
Appendix E	91a
Appendix F	92a
Appendix G	99a
Appendix H	101a

CITATIONS

Cases:

Alexander v. *County Board of Education*, 396 U.S. 19	10
Aytch and United States v. *Mitchell*, C.A. No. PB 70–C–127, E.D. Ark., decided January 15, 1971	11
Brown v. *Board of Education*, 347 U.S. 483	9, 10
Brown v. *Board of Education*, 349 U.S. 294	10
Buchanan v. *Warley*, 245 U.S. 60	10
Burleson v. *County Board of Election Commissioners of Jefferson County*, 308 F. Supp. 352, affirmed 432 F. 2d 1356	10, 11
Cooper v. *Aaron*, 358 U.S. 1	8, 9
Green v. *School Board of New Kent County*, 391 U.S. 430	3, 9, 10
Hawkins v. *Town of Shaw*, No. 29013, C.A. 5, decided January 28, 1971	12
Heart of Atlanta Motel v. *United States*, 379 U.S. 241	10

422-400—71——1

Cases—Continued

	Page
Hunter v. *Erickson*, 393 U.S. 385	10
Jackson v. *Godwin*, 400 F. 2d 529	12
Kennedy Park Homes Association, Inc. and United States v. *City of Lackawanna*, 436 F. 2d 108, certiorari denied April 5, 1971, No. 1319, Oct. Term, 1970	12
Loving v. *Virginia*, 388 U.S. 1	9
McLaughlin v. *Florida*, 579 U.S. 184	9
Smith v. *Texas*, 311 U.S. 128	9
Swann v. *Board of Education, No. 281, Oct. Term, 1970*, decided April 20, 1971	8, 10
Turner v. *Warren County Board of Education*, C.A. No. 1482, E.D. N.C., affirmed *sub nom. Turner* v. *Littleton-Lake Gaston School District*, No. 14,990 C.A. 4, decided March 23, 1971	6, 7
United States v. *State of Texas*, 321 F. Supp. 1043, appeal pending, C.A. 5, No. 71–1061	11
Wright v. *Council of the City of Emporia*, No. 14,552, C.A. 4, decided March 23, 1971	7, 8
Wright v. *City of Brighton, Alabama*, No. 29,262, C.A. 5, decided March 16, 1971	12

Constitution and statutes:

United States Constitution, Fourteenth Amendment	2, 8
Civil Rights Act of 1964, Section 407, 42 U.S.C. 2000c–6	2, 3, 5, 99
28 U.S.C. 1345	5
1969 Session Laws of North Carolina, Chapter 31	2, 3, 4, 5, 6, 101

In the Supreme Court of the United States

OCTOBER TERM, 1970

NO.——

UNITED STATES OF AMERICA, PETITIONER

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

The Solicitor General, on behalf of the United States, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals sitting *en banc* (App. A, *infra*, pp. 1a–18a) and the dissenting opinions (App. B, *infra*, pp. 27a–43a and pp. 44a–55a) are not yet reported.

The opinion and order of the district court entered on motion for preliminary injunction (App. C, *infra*, pp. 56a–61a) are not reported; the opinion and order on permanent injunction (App. D, *infra*, pp. 62a–90a) are reported at 314 F. Supp. 65.

JURISDICTION

The judgment of the court of appeals (App. E, *infra*, p. 91a) was entered on March 23, 1971. The

jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the court of appeals erred in holding that a State may split desegregating school districts into multiple districts, even if the establishment of a unitary system is thereby impaired, unless the "primary purpose" of the split is to retain as much separation of the races as possible.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 1 of the Fourteenth Amendment to the Constitution of the United States provides as follows:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, is set out in Appendix G, *infra,* p. 99a.

Chapter 31 of the 1969 Session Laws of North Carolina, is set out in Appendix H, *infra,* p. 101a.

STATEMENT

Scotland Neck, North Carolina, is a town with a population of approximately 3000 located in the southeastern portion of Halifax County. The schools

in Scotland Neck have been operated as part of the Halifax County Administrative Unit since 1936. Halifax County ran a completely segregated dual school system until 1965, when it adopted a freedom-of-choice desegregation plan (App. A 8a). Little integration followed (*ibid.*). After this Court's decision in 1968 in *Green* v. *School Board of New Kent County,* 391 U.S. 430, the Department of Justice, pursuant to 42 U.S.C. 2000c–6, informed the Halifax County Board that the operation of its schools did not comply with constitutional requirements. Negotiations with the Board resulted in a plan to disestablish the county's dual school system by the beginning of the 1969–70 school year. Interim steps were to be taken in 1968–69.[1] (App. A 9a.) The plan and interim steps were given wide local publicity (App. D 67a).

As a result of renewed efforts by citizens of Scotland Neck a number of months after the *Green* decision, a local law, Chapter 31, 1969 Session Laws of North Carolina (App. H 101a) was enacted by the North Carolina General Assembly on March 3, 1969.[2] Chapter 31 provided for a new school district bounded by the city limits of Scotland Neck, and for a supplemental tax assessment upon approval by a majority of the city's voters. The voters registered

[1] One such step was the combining of the 7th and 8th grades of the previously all-black Brawley school, located near the city limits of Scotland Neck, with the all-white junior high school in the city (App. D 67a–68a).

[2] Earlier unsuccessful attempts had been made by the citizens of Scotland Neck to have a law similar to Chapter 31 passed. (See App. D 69a).

their approval in a special election on April 8, 1969, and some preliminary steps were taken so that the newly-created school district—Scotland Neck City Administrative Unit—could start operation at the beginning of the 1969–70 school year (App. D 72a, 73a). Shortly thereafter, the Halifax County Board decided not to carry out the previously adopted desegregation plan (App. A 9a).

Chapter 31's implementation would have resulted in carving out of the Halifax County system, which had a student population of 10,655, a smaller school district of 695 students. The predominantly black county system consisted of 22 percent white students, 77 percent black, and 1 percent Indian; by comparison, the new, smaller district would have consisted of 57.4 percent white students and 42.6 percent black. (App. D 14a–15a). By the removal of Scotland Neck from the larger rural area its schools had traditionally served, the number of white children in schools in that area would have been reduced by almost one half (from 804 to 405) and the number of black children would have changed from 3,095 to 2,799. The County system as a whole would then have had 9,960 students, 19 percent of whom would have been white, 80 percent black and 1 percent Indian. (App A 14a).

Since the planned Scotland Neck schools could accommodate 1,000 students,[3] but would have had 695

[3] The schools in Scotland Neck were inadequate to accommodate even the original 695 students; the City therefore purchased from the County a junior high school located outside the City's boundaries (App. B52a).

pupils when Chapter 31 was implemented, the City and the County agreed to a plan allowing County students to transfer into the Scotland Neck system for a fee (App. D 74a). By August 25, 1969, 350 white and 10 black students had applied to transfer into Scotland Neck, and 44 black students had applied to transfer out. The combined effect of Chapter 31 and the transfer plan would have been a Scotland Neck system of 1,011 students, 74 percent white and 26 percent black, a Halifax County system of 9,644 students, 17 percent white, 82 percent black and 1 percent Indian, and virtually all-black enrollment in the rural area immediately surrounding Scotland Neck.[4]

1. *The decisions of the district court.* The government's complaint in this action, filed on June 16, 1969, under Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, and 28 U.S.C. 1345, sought an order to desegregate the Halifax County school system and an injunction against the implementation of Chapter 31. After a hearing on the government's motion for a preliminary injunction, the district court, on August 25, 1969, enjoined the Scotland Neck City Board of Education from carrying out Chapter 31 pending a hearing on the merits (App. C 56a).

[4] In its amended answer to the government's complaint, the School Board withdrew the transfer plan and informed the district court that it intended to allow only such transfers as "may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court." (App. A n. 4, p. 18a.) See, also, App. B52a (Winter, J., dissenting).

On December 17 and 18, 1969, there was a consolidated trial on the merits of the instant case and *Turner* v. *Warren County Board of Education* (C.A. No. 1482, E.D. N.C.),[5] which presented similar questions.[6] The district court entered its judgment on May 26, 1970, finding that a significant factor in the enactment of Chapter 31 was a desire to preserve a ratio of black to white students that would be acceptable to white parents and thereby encourage them not to take their children out of the public school system.[7] (App. D 62a.) Further, the district court found that the effect of Chapter 31 was to create a refuge for white students in Halifax County that interfered with the desegregation of Halifax County schools and prevented the County Board of Education from complying with court orders. (App. D 89a). The court also found that Chapter 31 served no state interest and, therefore, concluded that the Act was unconstitutional and its operation should be enjoined (*id.* at 90a).

2. *The decision of the court of appeals.* On appeal by the Scotland Neck City Board of Education and

[5] The *Turner* case involved the carving out of two separate city administrative units from a county system; the order and opinion enjoining such action was affirmed *sub nom. Turner* v. *Littleton-Lake Gaston School District*, C.A. 4, decided March 23, 1971 (App. F 92a).

[6] The district court permitted intervention by the Attorney General of North Carolina, certain Haliwa Indians, and certain black teachers in the Halifax County system (App. D 63a n. 1).

[7] Two other significant factors found by the court were a desire for more local control and a desire to increase the expenditures for the Scotland Neck schools.

the Attorney General of North Carolina, the court of appeals sitting *en banc*[8] reversed (App. A 1a), with Judges Sobeloff and Winter dissenting (App. B 27a, 44a). The court held that Chapter 31 did not interfere with the desegregation of the Halifax County schools, that it did not create a white refuge, and, following the rule formulated in *Wright* v. *Council of the City of Emporia* (No. 14,552), decided by the court on the same day,[9] that two non-racial justifications adequately explain the splitting-off of Scotland Neck, even assuming that a more even racial balance would be more effective in creating a unitary system in Halifax County (App. A 17a). The proposed transfer plan was enjoined, however, on the ground that it would tend to resegregate the school systems (*ibid.*).[10]

REASONS FOR GRANTING THE WRIT

As the court of appeals observed in *Emporia, supra*, "There is serious danger that the creation of new school districts may prove to be yet another method to

[8] After argument on September 16, 1970, before a panel of three judges, the case was reargued before the court *en banc* on December 7, 1970, along with the appeal in *Littleton-Lake Gaston, supra*.

[9] Three cases, *Scotland Neck*, *Emporia*, and *Littleton-Lake Gaston*, involving basically the same issues, were decided by the court of appeals on the same date. The rule of law formulated by the majority is most fully set out in *Emporia*, and the dissents in the present case are appended to that opinion. The decisions in *Emporia* and in *Littleton-Lake Gaston* are contained, respectively, in Appendices B and F, *infra*.

[10] A motion by the United States for a stay of the court of appeals' mandate in the present case pending application for certiorari is pending in the court of appeals.

obstruct the transition from racially separated school systems to school systems in which no child is denied the right to attend a school on the basis of race" (App. B 21a. Cf. *Swann* v. *Board of Education,* No. 281, this Term, decided April 20, 1971, slip op. at 9. This case raises significant questions with respect to seceding school districts and the requirements of the Fourteenth Amendment.

The court of appeals here applied the test it formulated in the *Emporia* case (App. B 21a):

> If the creation of a new school district is designed to further the aim of providing quality education and is attended secondarily by a modification of the racial balance, short of resegregation, the federal courts should not interfere. If, however, the primary purpose for creating a new school district is to retain as much of separation of the races as possible, the state has violated its affirmative constitutional duty to end state supported segregation.

This "primary purpose" test is, we submit, seriously inadequate for fulfillment of the mandate of the Fourteenth Amendment and at variance with the decisions of this Court. It encourages whites in school districts having a substantial black student population to carve out as independent districts areas that are predominantly white and, in so doing, to mask the true purpose by devising other justifications. Compare *Cooper* v. *Aaron,* 358 U.S. 1, 17. The dissenting judges in the court of appeals correctly observed that under the majority's test the constitutional mandate will be easily avoided (App. B 30a, 45a–46a).

In holding that "[s]eparate educational facilities are inherently unequal," *Brown* v. *Board of Education,* 347 U.S. 483, 495, this Court did not distinguish between racial segregation with a 40 percent racial purpose and racial segregation with a 60 percent racial purpose. Indeed, however innocent its motives, a state may not simply ignore the racial consequences of its actions, for it has long been settled that "[w]hat the Fourteenth Amendment prohibits is racial discrimination * * * whether accomplished ingeniously or ingenuously * * *". *Smith* v. *Texas,* 311 U.S. 128, 132. See *Cooper* v. *Aaron,* 358 U.S. 1, 17.

Accordingly, when the state's action produces racial segregation in the public schools, the courts must consider its constitutionality in light of the setting of the Act (for example, whether it took place in the historical setting of state-imposed segregation), the available alternatives (whether the Act's legitimate objectives could be accomplished by means having a less adverse racial impact), and the magnitude of the state's interest in pursuing the particular course of action. See, *e.g., Green* v. *School Board of New Kent County,* 391 U.S. 430; compare *McLaughlin* v. *Florida,* 379 U.S. 184; *Loving* v. *Virginia,* 388 U.S. 1.

When, as here, a dual school system is created by the "simple expedient of labeling the two sets of schools as separate districts"[11]—one with a 57:43 white to black ratio, the other with a 19:80 ratio—that is, when the state's action impedes full realization of

[11] Judge Sobeloff, dissenting (App. B 36a).

the promise of *Brown*, that action can be upheld only if the state can show a compelling justification for it. In so analyzing the secession of Scotland Neck from the Halifax County school system, the dissenting judges in the court of appeals and the district court found no such justification (App. B 37a; 50a–53a; App. D 90a). We agree.

In addition, the standard applied by the court of appeals will significantly weaken the ability of district courts to use their equitable powers as contemplated by this Court in *Brown* v. *Board of Education*, 349 U.S. 294, 300–391, to effectuate their decrees implementing the requirements of *Green* and *Alexander* v. *County Board of Education*, 396 U.S. 19. Cf. *Swann* v. *Board of Education, supra.* While the district courts may sometimes determine the various motives [12] that played a part in a decision, a requirement that they weigh the relative influence of each motive to determine which predominated will not only trap the federal courts "in a quagmire of litigation" as they seek to delve into the inner workings of the minds of legislators or other public officials, but will also sanction an easy method of evading the mandate of *Brown* (App. B 42a; App. D 77a). See *Burleson* v. *County Board of Election Commissioners of Jefferson County*, 308 F. Supp. 352, 357 (E.D. Ark.), affirmed, 432 F. 2d 1356 (C.A. 8).

[12] The possible variety of mixed motives is well illustrated by such cases as *Buchanan* v. *Warley*, 245 U.S. 60 (maintenance of public peace and property values); *Hunter* v. *Erickson*, 393 U.S. 385, 392 (need to move slowly in a delicate area of race relations); *Heart of Atlanta Motel* v. *United States*, 379 U.S. 241, 260 (fear of economic loss).

Indeed, the court below has adopted a method of analysis of secessions from desegregating school systems which is at variance with the decision of the Eighth Circuit in the *Burleson* case, *supra*. In that case, the district court had enjoined the secession of the Hardin area (predominantly white) from the Dollarway School District in Arkansas (55 percent white and 45 percent black) because it would interfere with implementation of the approved desegregation plan for Dollarway. The Eighth Circuit affirmed *per curiam* based on the opinion of the district court.[13]

The standard adopted by the court below also departs from the test applied by both the Second and

[13] Several cases pending in other courts of appeals also present quite similar issues. In *United States* v. *Jefferson County Board of Education* (No. 30,387, C.A. 5, docketed August 21, 1970), the issue is whether the city of Pleasant Grove, Alabama, can separate itself from the Jefferson County school system where the separation would adversely affect implementation of a previously approved desegregation plan for Jefferson County. In *Aytch and United States* v. *Mitchell, et al.* (C.A. No. PB 70-C-127, E.D. Ark., decided January 15, 1971), the district court enjoined the holding of an election to divide the Watson Chapel School District. The defendants filed a notice of appeal on February 19, 1971. Likewise, in *United States* v. *State of Texas*, 321 F. Supp. 1043 (E.D. Tex. 1970), appeal pending (No. 71-1061, C.A. 5, docketed January 12, 1971), the district court found racial discrimination in the transfer of white residential areas from a predominantly black to a predominantly white school system. In *Lee and United States, et al.* v. *Calhoun County Board of Education, et al.*, (No. 30,154, C.A. 5, docketed July 1970), the district court treated the Calhoun County school system and the newly formed Oxford City school system as one for purposes of ruling on the sufficiency of a desegregation plan for Calhoun County (including Oxford).

the Fifth Circuits in cases involving racially discriminatory state action in other areas. In those cases the courts properly held that where action by a state agency has a racially discriminatory effect the action can be justified only by a "compelling state interest." *Kennedy Park Homes Association, Inc. and United States* v. *City of Lackawanna,* 436 F. 2d 108 (C.A. 2), certiorari denied April 5, 1971, No. 1319, this Term; *Jackson* v. *Godwin,* 400 F. 2d 529 (C.A. 5); *Hawkins* v. *Town of Shaw,* No. 29,013, C.A. 5, decided January 28, 1971); *Wright* v. *The City of Brighton, Alabama,* No. 29,262, C.A. 5, decided March 16, 1971.

Here both courts below agreed that at least one purpose for the realignment of the school districts was racial and the undeniable effect would be to create a "more white" school or schools from which the vast majority of black students in the Halifax County system would be effectively excluded. In these circumstances, the State's showing of additional, non-racial purposes fell far short of the requisite compelling justification for such a result, and the judgment of the district court enjoining the realignment should have been affirmed.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

JERRIS LEONARD,
Assistant Attorney General.

LAWRENCE G. WALLACE,
Deputy Solicitor General.

A. RAYMOND RANDOLPH, JR.,
Assistant to the Solicitor General.

BRIAN K. LANDSBERG,
THOMAS M. KEELING,
Attorneys.

APRIL 1971.

APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 14929

UNITED STATES OF AMERICA, AND PATTIE BLACK COTTON, EDWARD M. FRANCIS, PUBLIC SCHOOL TEACHERS OF HALIFAX COUNTY, ET AL., APPELLEES

versus

SCOTLAND NECK CITY BOARD OF EDUCATION, A BODY CORPORATE, APPELLANT

No. 14930

UNITED STATES OF AMERICA, AND PATTIE BLACK COTTON, EDWARD M. FRANCIS, PUBLIC SCHOOL TEACHERS OF HALIFAX COUNTY, AND OTHERS, APPELLEES

versus

ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, THE STATE BOARD OF EDUCATION OF NORTH NORTH CAROLINA, AND DR. A. CRAIG PHILLIPS, NORTH CAROLINA STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, APPELLANTS

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilson

ALGERNON L. BUTLER, District Judge, and JOHN D. LARKINS, JR., District Judge

422-400—71— 2

Argued September 16, 1970

Before BOREMAN, BRYAN and CRAVEN, Circuit Judges

Reargued December 7, 1970—Decided March 23, 1971

Before HAYNSWORTH, Chief Judge, SOBELOFF, BOREMAN, BRYAN, WINTER, CRAVEN and BUTZNER, Circuit Judges sitting en banc, on resubmission

William T. Joyner and *C. Kitchin Josey* (*Joyner & Howison* and *Robert Morgan*, Attorney General of North Carolina, on brief) for Appellants; and *Brian K. Landsberg*, Attorney, Department of Justice (*Jerris Leonard*, Assistant Attorney General, *David L. Norman*, Deputy Assistant Attorney General, and *Francis H. Kennedy, Jr.*, Attorney, Department of Justice, and *Warren H. Coolidge*, United States Attorney, on brief) for Appellee United States of America; and *James R. Walker, Jr.*, (*Samuel S. Mitchell* on brief) for Appellees Pattie Black Cotton, et al.

CRAVEN, Circuit Judge:

The Scotland Neck City Board of Education and the State of North Carolina have appealed from an order of the United States District Court for the Eastern District of North Carolina entered May 23, 1970, declaring Chapter 31 of the 1969 Session Laws of North Carolina unconstitutional and permanently enjoining any further implementation of the statute.[1] We reverse.

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[1] This is one of three cases now before the Court involving the "carving out" of part of a larger school district. The others are Alvin Turner v. Littleton-Lake Gaston School District, — F. 2d — (No. 14,990) and Wright v. Council of City of Emporia, — F. 2d — (No. 14,552).

Chapter 31 of the 1969 Session Laws of North Carolina,[2] enacted by the North Carolina General Assembly on March 3, 1969, provided for a new school district bounded by the city limits of Scotland Neck upon the

[2] Chapter 31 is entitled and reads as follows:

"AN ACT to improve and provide public schools of a higher standard for the residents of Scotland Neck in Halifax County, to establish the Scotland Neck City Administrative Unit, to provide for the administration of the public schools in said administrative unit, to levy a special tax for the public schools of said administrative unit, all of which shall be subject to the approval of the voters in a referendum or special election

SECTION 1. There is hereby classified and established a public school administrative unit to be known and designated as the Scotland Neck City Administrative Unit which shall consist of the territory or area lying and being within the boundaries or corporate limits of the Town of Scotland Neck in Halifax County, and the boundaries of said Scotland Neck City Administrative Unit shall be coterminous with the present corporate limits or boundaries of the Town of Scotland Neck. The governing board of said Scotland Neck City Administrative Unit shall be known and designated as the Scotland Neck City Board of Education, and said Scotland Neck City Board of Education (hereinafter referred to as: Board) shall have and exercise all of the powers, duties, privileges and authority granted and applicable to city administrative units and city boards of education as set forth in Chapter 115 of the General Statutes, as amended.

"SECTION 2. The Board shall consist of five members appointed by the governing authority of the Town of Scotland Neck, and said five members shall hold office until the next regular municipal election of the Town of Scotland Neck to be held in May, 1971. At the regular election for Mayor and Commissioners of the Town of Scotland Neck to be held in May, 1971, there shall be elected five members of the Board, and three persons so elected who receive the highest number of votes shall hold office for four years and the two persons elected who receive the next highest number of votes shall hold office

approval of a majority of the voters of Scotland Neck in a referendum. The new school district was approved by the voters of Scotland Neck on April 8, 1969, by a vote of 813 to 332 out of a total of 1,305 registered

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for two years, and thereafter all members of the Board so elected, as successors, shall hold office for four years. All members of the Board shall hold their offices until their successors (sic) are elected and qualified. All members of the Board shall be eligible to hold public office as required by the Constitution and laws of the State.

"SECTION 3. All members of the Board shall be elected by the qualified voters of the Town of Scotland Neck and said election shall be held and conducted by the governing authority of the Town of Scotland Neck and by its election officials and pursuant to the same laws, rules and regulations as are applicable to the election of the municipal officials of the Town of Scotland Neck, and the results shall be certified in the same manner. The election of members of the Board shall be held at the same time and place as applicable to the election of the Mayor and Board of Commissioners of the Town of Scotland Neck and in accordance with the expiration of terms of office of members of the Board. The members of the Board so elected shall be inducted into office on the first Monday following the date of election, and the expense of the election of the members of the Board shall be paid by the Board.

"SECTION 4. At the first meeting of the Board appointed as above set forth and of a new Board elected as herein provided, the Board shall organize by electing one of its members as chairman for a period of one year, or until his successor is elected and qualified. The chairman shall preside at the meetings of the Board, and in the event of his absence or sickness, the Board may appoint one of its members as temporary chairman. The Scotland Neck City Superintendent of Schools shall be ex officio secretary to his Board and shall keep the minutes of the Board but shall have no vote. If there exists a vacancy in the office of Superintendent, then the Board may appoint one of its members to serve temporarily as secretary to the Board. All vacancies in the membership of the Board by death, resignation, removal, change

voters. Prior to this date, Scotland Neck was part of the Halifax County school district. In July 1969, the United States Justice Department filed the complaint in this action against the Halifax County Board

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of residence or otherwise shall be filled by appointment by the governing authority of the Town of Scotland Neck of a person to serve for the unexpired term and until the next regular election for members of the Board when a successor shall be elected.

"SECTION 5. All public school property, both real and personal, and all buildings, facilities, and equipment used for public school purposes, located within the corporate limits of Scotland Neck and within the boundaries set forth in Section 1 of this Act, and all records, books, moneys budgeted for said facilities, accounts, papers, documents and property of any description shall become the property of Scotland Neck City Administrative Unit or the Board; all real estate belonging to the public schools located within the above-described boundaries is hereby granted, made over to, and automatically by force of this Act conveyed to the Board from the County public school authorities. The Board of Education of Halifax County is authorized and directed to execute any and all deeds, bills of sale, assignments or other documents that may be necessary to completely vest title to all such property to the Board.

"SECTION 6. Subject to the approval of the voters residing within the boundaries set forth in Section 1 of this Act, or within the corporate limits of the Town of Scotland Neck, as hereinafter provided, the governing authority of the Town of Scotland Neck, in addition to all other taxes, is authorized and directed to levy annually a supplemental tax not to exceed Fifty Cents (50c) on each One Hundred ($100.00). Dollars of the assessed value of the real and personal property taxable in said Town of Scotland Neck. The amount or rate of said tax shall be determined by the Board and said tax shall be collected by the Tax Collector of the Town of Scotland Neck and paid to the Treasurer of the Board. The Board may use the proceeds of the tax so collected to supplement any object or item in the school budget as fixed by law or to supplement

of Education seeking the disestablishment of a dual school system operated by the Board and seeking a declaration of invalidity and an injunction against the implementation of Chapter 31. Scotland Neck

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any object or item in the Current Expense Fund or Capital Outlay Fund as fixed by law.

"SECTION 7. Within ten days from the date of the ratification of this Act it shall be the duty of the governing authority of the Town of Scotland Neck to call a referendum or special election upon the question of whether or not said Scotland Neck City Administrative Unit and its administrative board shall be established and whether or not the special tax herein provided shall be levied and collected for the purposes herein provided. The notice of the special election shall be published once a week for two successive weeks in some newspaper published in the Town of Scotland Neck. The notice shall contain a brief statement of the purpose of the special election, the area in which it shall be held, and that a vote by a majority of those voting in favor of this Act will establish the Scotland Neck City Administrative Unit and its Administrative Board as herein set forth, and that an annual tax not to exceed Fifty Cents (50c) on the assessed valuation of real and personal property, according to each One Hundred Dollars ($100.00) valuation, the rate to be fixed by the Board, will be levied as a supplemental tax in the Town of Scotland Neck, for the purpose of supplementing any lawful public school budgetary item. A new registration of voters shall not be required and in all respects the laws and regulations under which the municipal elections of the Town of Scotland Neck are held shall apply to said special election. The governing authority of the Town of Scotland Neck shall have the authority to enact reasonable rules and regulations for the necessary election books, records and other documents for such special election and to fix the necessary details of said special election.

"SECTION 8. In said referendum or special election a ballot in form substantially as follows shall be used: VOTE FOR ONE:

"( ) FOR creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate pub-

City Board of Education was added as a defendant in August 1969, and the Attorney General of North Carolina was added as a defendant in November 1969. On August 25, 1969, the District Court issued a temporary injunction restraining the implementation of Chapter 31, and thereafter on May 23, 1970, made the injunction permanent. The District Court reasoned that Chapter 31 was unconstitutional because it would create a refuge for white students and would interfere with the desegregation of the Halifax County school system.

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lic schools of said Unit and for supplemental tax not to exceed Fifty Cents (50c) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

"( ) AGAINST creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and against supplemental tax not to exceed Fifty Cents (50c) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

"If a majority of the qualified voters voting at such referendum or special election vote in favor of establishing Scotland Neck City Administrative Unit, for creation of administrative Board to operate public schools of said Unit and for special supplemental tax as herein set forth, then this Act shall become effective and operative as to all its provisions upon the date said special election results are canvassed and the result judicially determined, otherwise to be null and void. The expense of said referendum or special election shall be paid by the governing authority of the Town of Scotland Neck but if said Unit and Board are established, then said Town of Scotland Neck shall be reimbursed by the Board for said expense as soon as possible.

"SECTION 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

"SECTION 10. This Act shall be in full force and effect according to its provisions from and after its ratification."

It is clear that Chapter 31 is not unconsitutional on its face. But a facially constitutional statute may in the context of a given fact situation be applied unfairly or for a discriminatory purpose in violation of the equal protection clause of the Fourteenth Amendment. *Yick Wo* v. *Hopkins,* 118 U.S. 356 (1886). We cannot judge the validity of the statute in vacuo but must examine it in relation to the problem it was meant to solve. *Poindexter* v. *Louisiana Financial Assistance Commission,* 275 F. Supp. 833 (E.D. La. 1967).

I

THE HISTORY OF SCHOOL DESEGREGATION IN HALIFAX COUNTY AND THE ATTEMPTS TO SECURE A SEPARATE SCHOOL DISTRICT FOR THE CITY OF SCOTLAND NECK

For many years until 1936, the City of Scotland Neck was a wholly separate school district operating independently of the Halifax County school system into which it was then merged. Both the elementary and the high school buildings presently in use in Scotland Neck were constructed prior to 1936 and were financed by city funds.

Halifax County operated a completely segregated dual school system from 1936 to 1965. In 1965, Halifax County adopted a freedom-of-choice plan. Little integration resulted during the next three years. Shortly after the Supreme Court decision in *Green* v. *County School Board of New Kent County,* 391 U.S. 430, in May of 1968, the Halifax County Board of Education requested the North Carolina Department of Public Instruction to survey their schools and to make recommendations regarding desegregation of the school system.

In July 1968, the Justice Department sent a "notice letter" to the Halifax County Board notifying them that they had not disestablished a dual school system and that further steps would be necessary to comply with *Green*. After negotiations with the Justice Department, the Halifax County Board agreed informally to disestablish their dual school system by the beginning of the 1969–70 school year, with a number of interim steps to be taken in the 1968–69 school year. As part of the interim steps, the seventh and eighth grades were transferred from the Brawley School, an all-black school located just outside the city limits of Scotland Neck, to the Scotland Neck School, previously all white.

The results of the North Carolina Department of Public Instruction survey were published in December of 1968. It recommended an interim plan and a long range plan. The interim plan proposed the creation of a unitary school system through a combination of geographic attendance zones and pairing of previously all-white schools with previously all-black schools. Scotland Neck School was to be paired with Brawley School, grades 1–4 and 8–9 to attend Brawley and grades 5–6 and 10–12 to attend Scotland Neck. The long range plan called for the building of two new consolidated high schools, each to serve half of the geographic area composing the Halifax County school district. The Halifax County Board of Education declined to implement the plan proposed by the Department of Public Instruction and the Justice Department filed suit in July 1969.

Paralleling this history of school segregation in the Halifax County school system is a history of attempts on the part of the residents of Scotland Neck to ob-

tain a separate school district. The proponents of a separate school district began to formulate their plans in 1963, five years prior to the *Green* decision and two years prior to the institution of freedom-of-choice by the Halifax County Board. They were unable to present their plan in the form of a bill prior to the expiration of the 1963 session of the North Carolina Legislature, but a bill was introduced in the 1965 session which would have created a separate school district composed of Scotland Neck and the four surrounding townships, funded partially through local supplemental property taxes. The bill did not pass and it was the opinion of many of the Scotland Neck residents that its defeat was the result of opposition of individuals living outside the city limits of Scotland Neck.

At the instigation of the only Halifax County Board of Education member who was a resident of Scotland Neck, a delegation from the Halifax County schools attempted in 1966 to get approval for the construction of a new high school facility in Scotland Neck to be operated on a completely integrated basis. The proposal was not approved by the State Division of School Planning.

After visiting the smallest school district in the state to determine the economic feasibility of creating a separate unit for the City of Scotland Neck alone, the proponents of a separate school district again sponsored a bill in the Legislature. It was this bill which was eventually passed on March 31, 1969, as Chapter 31 of the Session Laws of 1969.

II

THE THREE PURPOSES OF CHAPTER 31

The District Court found that the proponents of a special school district had three purposes in mind in sponsoring Chapter 31 and the record supports these findings. First, they wanted more local control over their schools. Second, they wanted to increase the expenditures for their schools through local supplementary property taxes. Third, they wanted to prevent anticipated white fleeing of the public schools.

Local control and increased taxation were thought necessary to increase the quality of education in their schools. Previous efforts to upgrade Scotland Neck Schools had been frustrated. Always it seemed the needs of the County came before Scotland Neck. The only county-wide bond issue passed in Halifax County since 1936 was passed in 1957. Two local school districts operating in Halifax County received a total of $1,020,000 from the bond issue and the Halifax County system received $1,980,000. None of the money received by Halifax County was spent on schools within the city limits of Scotland Neck. If Scotland Neck had been a separate school district at the time, it would have received $190,000 as its proportionate share of the bond issue. The Halifax County system also received $950,000 in 1963 as its proportionate share of the latest statewide bond issue. None of this money was spent or committed to any of the schools within the city limits of Scotland Neck. Halifax County has reduced its annual capital outlay tax from 63 cents per $100 valuation in 1957 to 27.5 cents per $100 valuation in the latest fiscal year. In order for the referendum to pass under the terms of Chapter 31, the voters of Scotland Neck had to approve not

only the creation of a separate school district but in addition had to authorize a local supplementary property tax not to exceed 50 cents per $100 valuation per year. Despite such a political albatross the referendum was favorable, and moreover, the supplementary tax was levied by the Scotland Neck Board at the full 50 cent rate.

III

WHITE FLEEING—THE QUESTIONABLE THIRD PURPOSE

But it is not the permissable first purpose or the clearly commendable second purpose which caused the District Court to question the constitutionality of Chapter 31. It is rather the third purpose, a desire on the part of the proponents of Chapter 31 to prevent, or at least diminish, the flight of white students from the public schools, that concerned the District Court. The population of Halifax County is predominantly black. The population of Scotland Neck is approximately 50 percent black and 50 percent white, and the District Court found that the pupil ratio by race in the schools would have been 57.3 percent white to 42.7 percent black.

A number of decisions have mentioned the problem of white flight following the integration of school systems which have a heavy majority of black students. *Monroe* v. *Board of Commissioners of the City of Jackson;* 391 U.S. 450, 459 (1968); *Brunson* v. *Board of Trustees of School District No. 1 of Clarendon County,* — F. 2d — (4th Cir. 1970); *Walker* v. *County School Board of Brunswick County,* 413 F. 2d 53 (4th Cir. 1969); *Anthony* v. *Marshall County Board of Education,* 409 F. 2d 1287 (5th Cir. 1969). All of these cases hold that the threat of white flight will not justify the continuing operation of a dual

school system. But it has never been held by any court that a school board (or a state) may not constitutionally consider and adopt measures for the purpose of curbing or diminishing white flight from a unitary school system. Indeed it seems obvious that such a purpose is entirely consistent with and may help implement the *Brown* principle. It is not the purpose of preventing white flight which is the subject of judicial concern but rather the price of achievement. If the effect of Chapter 31 is to continue a dual school system in Halifax County, or establish one in Scotland Neck, the laudable desire to stem an impending flow of white students from the public schools will not save it from constitutional infirmity. But if Chapter 31 does not have that effect, the desire of its proponents to halt white flight will not make an otherwise constitutional statute unconstitutional.

In considering the effect of Chapter 31 on school desegregation in Halifax County and Scotland Neck, it is important to distinguish the effect of Chapter 31 from the effect of a transfer plan adopted by the Scotland Neck Board of Education. The effect of the transfer plan was to substantially increase the percentage of white students in the Scotland Neck schools. But the transfer plan is solely the product of the Scotland Neck Board of Education and not Chapter 31. Therefore the effect of the transfer plan has no relevance to the question of the constitutionality of Chapter 31.[3]

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[3] Appellees argue that the creation of the transfer plan is evidence that the intended effect of Chapter 31 was to preserve the previous racial makeup of the Scotland Neck schools. We disagree.

We are concerned here with the intent of the North Carolina Legislature and not the intent of the Scotland Neck Board. In determining legislative intent of an act such as Chapter 31,

The District Court held that the creation of a separate Scotland Neck School district would unconstitutionally interfere with the implementation of a plan to desegregate the Halifax County schools adopted by the Halifax County Board of Education. We hold that the effect of the separation of the Scotland Neck schools and students on the desegregation of the remainder of the Halifax County system is minimal and insufficient to invalidate Chapter 31. During the 1968–69 school year, there were 10,655 students in the Halifax County Schools, 8,196 (77%) were black, 2,357 (22%) were white, and 102 (1%) were Indian. Of this total, 605 children of school age, 399 white and 296 black, lived within the city limits of Scotland Neck. Removing the Scotland Neck students from the Halifax County system would have left 7,900 (80%) black students, 1,958 (19%) white students, and 102 (1%) Indian students. This is a shift in the ratio of black to white students of only 3 percent, hardly a substantial change. Whether the Scotland Neck students remain within the Halifax County system or attend separate schools of their own, the Halifax County schools will have a substantial majority of black students. Nor would there be a per pupil de-

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it is appropriate to consider the reason that the proponents of the act desired its passage if it can be inferred that those reasons were made known to the Legislature. There is evidence in the record to show that the three purposes that the District Court found were intended by the proponents of Chapter 31 were presented to the Legislature. However, there is nothing in the record to suggest that the Legislature had any idea that the Scotland Neck Board would adopt a transfer plan after the enactment of Chapter 31 which would have the effect of increasing the percentage of white students.

We will discuss the transfer plan later in a separate part of the opinion.

crease in the proceeds from the countywide property taxes available in the remaining Halifax County system. The county tax is levied on all property in the county and distributed among the various school districts in the county on a per pupil basis. In addition, the Superintendent of Schools for the Halifax County system testified that there would be no decrease in teacher-pupil ratio in the remaining Halifax County system and in fact that in a few special areas, such as speech therapy, the teacher-pupil ratio may actually increase.

Nor can we agree with the District Court that Chapter 31 creates a refuge for the white students of the Halifax County system. Although there are more white students than black students in Scotland Neck, the white majority is not large, 57.3 percent white and 42.6 percent black. Since all students in the same grade would attend the same school, the system would be integrated throughout. There is no indication that the geographic boundaries were drawn to include white students and exclude black students as there has been in other cases where the courts have ordered integration across school district boundaries. *Haney v. County Board of Education of Sevier County*, 410 F. 2d 920 (8th Cir. 1969). The city limits provide a natural geographic boundary. There is nothing in the record to suggest that the greater percentage of white students in Scotland Neck is a product of residential segregation resulting in part from state action. See *Brewer v. School Board of the City of Norfolk*, 397 F. 2d 37 (4th Cir. 1968).

From the history surrounding the enactment of Chapter 31 and from the effect of Chapter 31 on school desegregation in Halifax County, we conclude that the purpose of Chapter 31 was not to invidiously

discriminate against black students in Halifax County and that Chapter 31 does not violate the equal protection clause of the Fourteenth Amendment.

Appellees urge in their brief that conceptually the way to analyze this case is to "view the results of severance as if it were part of a desegregation plan for the original system." We do not agree. The severance was not part of a desegregation plan proposed by the school board but was instead an action by the Legislature redefining the boundaries of local governmental units. If the effect of this act was the continuance of a dual school system in Halifax County or the establishment of a dual system in Scotland Neck it would not withstand challenge under the equal protection clause, but we have concluded that it does not have that effect.

But assuming for the sake of argument that the appellees' method of analysis is correct, we conclude that the severance of Scotland Neck students would still withstand constitutional challenge. Although it is not entirely clear from their brief, appellants' apparent contention is that the variance in the ratio of black to white students in Scotland Neck from the ratio in the Halifax County system as a whole is so substantial that if Scotland Neck was proposed as a geographic zone in a desegregation plan, the plan would have to be disapproved. The question of "whether, as a constitutional matter, any particular racial balance must be achieved in the schools" has yet to be decided by the courts. *Northcross v. Board of Education of Memphis,* —U.S.—, 90, S. Ct. 891, 893 (1970) (Burger, C. J., concurring). In its first discussion of remedies for school segregation, *Brown v. Board of Education of Topeka,* 349 U.S. 294 (1955) (Brown II), the Supreme Court spoke in terms of "practical flexibility" and "reconciling pub-

lic and private needs." 349 U.S. at 300. In *Green v. County School Board of New Kent County,* 391 U.S. 430 (1968), the court made it clear that the school board has the burden of explaining its preference for a method of desegregation which is less effective in disestablishing a dual school system than another more promising method. Even if we assume that a more even racial balance throughout the schools of Halifax County would be more effective in creating a unitary school system, we conclude that the deviation is adequately explained by the inability of people of Scotland Neck to be able to increase the level of funding of the schools attended by their children when the geographic area served by those schools extended beyond the city limits of Scotland Neck.

Our conclusion that Chapter 31 is not unconstitutional leaves for consideration the transfer plan adopted by the Scotland Neck School Board. The transfer plan adopted by the Board provided for the transfer of students from the remaining Halifax County system into the Scotland Neck system and from the Scotland Neck system into the Halifax County system. Transfers into the Scotland Neck system were to pay $100 for the first child in a family, $25 for the next two children in a family, and no fee for the rest of the children in a family. As a result of this transfer plan, 350 white students and 10 black students applied for transfer into the Scotland Neck system, and 44 black students applied for transfer out of the system. The net result of these transfers would have been to have 74 percent white students and 26 percent black students in the Scotland Neck system. We conclude that these transfers would have tended toward establishment of a resegregated system and that the transfer plan violates the equal protection clause of the Fourteenth Amend-

ment.[4] See *Monroe v. Board of Commissioners of the City of Jackson*, 391 U.S. 450 (1968).

We reverse the judgment of the District Court holding Chapter 31 unconstitutional, and remand to the District Court with instructions to dissolve its injunction. The District Court will retain jurisdiction to consider plans of integration proposed by Halifax County Board of Education and by Scotland Neck Board of Education.

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[4] Perhaps it should be noted that in the school board's amended answer filed on September 3, 1969, it withdrew the original transfer plan and represented to the District Court that it intended to allow only such transfers as "may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court."

APPENDIX B

United States Court of Appeals for the Fourth Circuit

No. 14552

PECOLA ANNETTE WRIGHT, ET AL., APPELLEES

v.

COUNCIL OF THE CITY OF EMPORIA AND THE MEMBERS THEREOF, AND SCHOOL BOARD OF THE CITY OF EMPORIA AND THE MEMBERS THEREOF, APPELLANTS

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond

ROBERT R. MERHIGE, JR., District Judge

Argued October 8, 1970—Decided March 23, 1971

Before HAYNSWORTH, Chief Judge, BOREMAN, BRYAN, WINTER, and CRAVEN, Circuit Judges sitting en banc*

John F. Kay, Jr., and *D. Dortch Warriner* (*Warriner, Outten, Slagle & Barrett;* and *Mays, Valentine, Davenport & Moore* on brief) for Appellants, and *S. W. Tucker* (*Henry L. Marsh, III*, and *Hill, Tucker & Marsh;* and *Jack Greenberg, James M. Nabrit, III*, and *Norman Chachkin* on brief) for Appellees.

CRAVEN, *Circuit Judge:* In this case and two others now under submission en banc we must determine the extent of the power of state government to

*Judge Sobeloff did not participate. Judge Butzner disqualified himself because he participated as a district judge in an earlier stage of this case.

redesign the geographic boundaries of school districts.[1] Ordinarily, it would seem to be plenary but in school districts with a history of racial segregation enforced through state action, close scrutiny is required to assure there has not been gerrymandering for the purpose of perpetuating invidious discrimination.

Each of these cases involve a county school district in which there is a substantial majority of black students out of which was carved a new school district comprised of a city or a city plus an area surrounding the city. In each case, the resident students of the new city unit are approximately 50 percent black and 50 percent white. In each case, the district court enjoined the establishment of the new school district. In this case, we reverse.

I

If legislation creating a new school district produces a shift in the racial balance which is great enough to support an inference that the purpose of the legislation is to perpetuate segregation, and the district judge draws the inference, the enactment falls under the Fourteenth Amendment and the establishment of such a new school district must be enjoined. See *Gomillion* v. *Lightfoot*, 364 U.S. 399 (1960). Cf. *Haney* v. *County Board of Education of Sevier County*, 410 F. 2d 920 (8th Cir. 1969); *Burleson* v. *County Board of Election Commissioners of Jefferson County*, 308 F. Supp. 352 (E.D. Ark.) aff'd — F. 2d —, No. 20228 (8th Cir. Nov. 18, 1970). But where the shift is merely a modification of the racial ratio rather than effective resegregation the problem becomes more difficult.

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[1] The other two cases are *United States* v. *Scotland Neck City Board of Education*, — F. 2d —, Nos. 14929 and 14930 (4th Cir. —, 1971) and *Turner* v. *Littleton-Lake Gaston School District*. — F. 2d —, No. 14990 (4th Cir. —, 1971).

The creation of new school districts may be desirable and/or necessary to promote the legitimate state interest of providing quality education for the state's children. The refusal to allow the creation of any new school districts where there is any change in the racial makeup of the school districts could seriously impair the state's ability to achieve this goal. At the same time, the history of school integration is replete with numerous examples of actions by state officials to impede the mandate of *Brown* v. *Board of Education*, 349 U.S. 294 (1955) (*Brown II*). There is serious danger that the creation of new school districts may prove to be yet another method to obstruct the transition from racially separated school systems to school systems in which no child is denied the right to attend a school on the basis of race. Determining into which of these two categories a particular case fits requires a careful analysis of the facts of each case to discern the dominant purpose of boundary realignment. If the creation of a new school district is designed to further the aim of providing quality education and is attended secondarily by a modification of the racial balance, short of resegregation, the federal courts should not interfere. If, however, the primary purpose for creating a new school district is to retain as much of separation of the races as possible, the state has violated its affirmative constitutional duty to end state supported school segregation. The test is much easier to state than it is to apply.

II

Emporia became a city of the so-called second class on July 31, 1967, pursuant to a statutory procedure established at least as early as 1892. See 3 Va. Code § 15.1–978 to –998 (1950); Acts of the Assembly 1891–92, ch. 595. Prior to that time it was an incorporated

town and as such was part of Greensville County. At the time city status was attained Greensville County was operating public schools under a freedom of choice plan approved by the district court, and *Green* v. *County School Board of New Kent County,* 391 U.S. 430 (1968), invalidating freedom of choice unless it "worked," could not have been anticipated by Emporia, and indeed, was not envisioned by this court. *Bowman* v. *County School Board of Charles City County,* 382 F. 2d 326 (4th Cir. 1967). The record does not suggest that Emporia chose to become a city in order to prevent or diminish integration. Instead, the motivation appears to have been an unfair allocation of tax revenues by county officials.

One of the duties imposed on Emporia by the Virginia statutes as a city of the second class was to establish a school board to supervise the public education of the city's children. Under the Virginia statutes, Emporia had the option of operating its own school system or to work out one of a number of alternatives under which its children would continue to attend school jointly with the county children. Emporia considered operating a separate school system but decided it would not be practical to do so immediately at the time of its independence. There was an effort to work out some form of joint operation with the Greensville County schools in which decision making power would be shared. The county refused. Emporia finally signed a contract with the county on April 10, 1968, under which the city school children would attend schools operated by the Greensville County School Board in exchange for a percentage of the school system's operating cost. Emporia agreed to this form of operation only when given an ultimatum by the county in March 1968 that it would stop educating the city children mid-term unless some agreement was reached.

At the same time that the county was engaged in its controversy with Emporia about the means of educating the city children, the county was also engaged in a controversy over the elimination of racial segregation in the county schools. Until sometime in 1968, Greensville County operated under a freedom of choice plan. At that time the plaintiffs in this action successfully urged upon the district court that the freedom of choice plan did not operate to disestablish the previously existing dual school system and thus was inadequate under *Green* v. *County School Board of New Kent County, supra.* After considering various alternatives, the district court, in an order dated June 25, 1969, paired all the schools in Greensville County.

Also in June 1969, Emporia was notified for the first time by counsel that in all probability its contract with the county for the education of the city children was void under state law. The city then filed an action in the state courts to have the contract declared void and notified the county that it was ending its contractual relationship forthwith. Parents of city school children were notified that their children would attend a city school system. On August 1, 1969, the plaintiffs filed a supplemental complaint seeking an injunction against the City Council and the City School Board to prevent the establishment of a separate school district. A preliminary injunction against the operation of a separate system was issued on August 8, 1969. The temporary injunction was made permanent on March 3, 1969.[2]

The Emporia city unit would not be a white island in an otherwise heavily black county. In fact, even in

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[2] The decision of the court below is reported as *Wright* v. *County School Board of Greensville County*, 309 F. Supp. 671 (E.D. Va. 1970).

Emporia there will be a majority of black students in the public schools, 52 percent black to 48 percent white. Under the plan presented by Emporia to the district court, all of the students living within the city boundaries would attend a single high school and a single grade school. At the high school there would be a slight white majority, 48 percent black and 52 percent white, while in the grade school there would be a slight black majority, 54 percent black and 46 percent white. The city limits of Emporia provide a natural geographic boundary for a school district.

The student population of the Greensville County School District without the separation of the city unit is 66 percent black and 34 percent white. The students remaining in the geographic jurisdiction of the county unit after the separation would be 72 percent black and 28 percent white. Thus, the separation of the Emporia students would create a shift of the racial balance in the remaining county unit of 6 percent. Regardless of whether the city students attend a separate school system, there will be a substantial majority of black students in the county system.

Not only does the effect of the separation not demonstrate that the primary purpose of the separation was to perpetuate segregation, but there is strong evidence to the contrary. Indeed, the district court found that Emporia officials had other purposes in mind. Emporia hired Dr. Neil H. Tracey, a professor of education at the University of North Carolina, to evaluate the plan adopted by the district court for Greensville County and compare it with Emporia's proposal for its own school system. Dr. Tracey said his studies were made with the understanding that it was not the intent of the city to resegregate. He testified that the plan adopted for Greensville County would require additional expenditures for transpor-

tation and that an examination of the proposed budget for the Greensville County Schools indicated that not only would the additional expenditures not be forthcoming but that the budget increase over the previous year would not even keep up with increased costs due to inflation. Emporia on the other hand proposed increased revenues to increase the quality of education for its students and in Dr. Tracey's opinion the proposed Emporia system would be educationally superior to the Greensville system. Emporia proposed lower student teacher ratios, increased per pupil expenditures, health services, adult education, and the addition of a kindergarten program.

In sum, Emporia's position, referred to by the district court as "uncontradicted," was that effective integration of the schools in the whole county would require increased expenditures in order to preserve education quality, that the county officials were unwilling to provide the necessary funds, and that therefore the city would accept the burden of educating the city children. In this context, it is important to note the unusual nature of the organization of city and county governments in Virginia. Cities and counties are completely independent, both politically and geographically. See *City of Richmond* v. *County Board,* 199 Va. 679, 684 (1958); *Murray* v. *Roanoke,* 192 Va. 321, 324 (1951). When Emporia was a town, it was politically part of the county and the people of Emporia were able to elect representatives to the county board of supervisors. When Emporia became a city, it was completely separated from the county and no longer has any representation on the county board. In order for Emporia to achieve an increase in school expenditures for city schools it would have to obtain the approval of the Greensville County Board of

Supervisors whose constituents do not include city residents.

Determining what is desirable or necessary in terms of funding for quality education is the responsibility of state and school district officers and is not for our determination. The question that the federal courts must decide is, rather, what is the primary purpose of the proposed action of the state officials. See *Developments in the Law—Equal Protection,* 82 Harv. L. Rev. 1065 (1969). Is the primary purpose a benign one or is the claimed benign purpose merely a cover-up for racial discrimination? The district court must, of course, consider evidence about the need for and efficacy of the proposed action to determine the good faith of the state officials' claim of benign purpose. In this case, the court did so and found explicitly that "[t]he city clearly contemplates a superior quality education program. It is anticipated that the cost will be such as to require higher tax payments by city residents." 309 F. Supp. at 674. Notably, there was no finding of discriminatory purpose, and instead the court noted its satisfaction that the city would, if permitted, operate its own system on a unitary basis.

We think the district court's injunction against the operation of a separate school district for the City of Emporia was improvidently entered and unnecessarily sacrifices legitimate and benign educational improvement. In his commendable concern to prevent resegregation—under whatever guise—the district judge momentarily overlooked, we think, his broad discretion in approving equitable remedies and the practical flexibility recommended by *Brown II* in reconciling public and private needs. We reverse the judgment of the district court and remand with instructions to dissolve the injunction.

Because of the possibility that Emporia might institute a plan for transferring students into the city system from the county system resulting in resegregation,[3] or that the hiring of teachers to serve the Emporia school system might result in segregated faculties, the district court is directed to retain jurisdiction.

Reversed and remanded.

SOBELOFF, *Senior Circuit Judge,* with whom WINTER, *Circuit Judge,* joins, dissenting and concurring specially: In respect to Nos. 14929 and 14930, *United States* v. *Scotland Neck City Board of Education,* — F. 2d — (4th Cir. 1971), and No. 14990, *Turner* v. *Littleton-Lake Gaston School District,* — F. 2d — (4th Cir. 1971), the two cases in which I participated, I dissent from the court's reversal in *Scotland Neck* and concur in its affirmance in *Littleton-Lake Gaston.* I would affirm the District Court in each of those cases. I join in Judge Winter's opinion, and since he has treated the facts analytically and in detail, I find it unnecessary to repeat them except as required in the course of discussion. Not having participated in No. 14552, *Wright* v. *Council of City of Emporia,* — F. 2d — (4th Cir. 1971), I do not vote on that appeal, although the views set forth below necessarily reflect on that decision as well, since the principles enunciated by the majority in that case are held to govern the legal issue common to all three of these school cases.

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[3] A notice of August 31, 1969, invited applications from the county. Subsequently, the city assured the district court it would not entertain such applications without court permission.

I

The history of the evasive tactics pursued by white communities to avoid the mandate of *Brown* v. *Board of Education*, 349 U.S. 294 (1955), is well documented. These have ranged from outright nullification by means of massive resistance laws [1] and open and occasionally violent defiance,[2] through discretionary pupil assignment laws [3] and public tuition grants in support of private segregated schools,[4] to token integration plans parading under the banner "freedom-

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[1] *See Duckworth* v. *James*, 267 F. 2d 224 (4th Cir. 1959); *Bush* v. *Orleans Parish School Bd.*, 188 F. Supp. 916 (E.D. La. 1960), *aff'd per curiam*, 365 U.S. 569 (1961); *Bush* v. *Orleans Parish School Bd.*, 187 F. Supp. 42 (E.D. La. 1960), *aff'd Per curiam*, 365 U.S. 569 (1961); *Aaron* v. *McKinley*, 173 F. Supp. 944 (E.D. Ark. 1959); *aff'd sub nom. Faubus* v. *Aaron*, 361 U.S. 197 (1959); *James* v. *Almond*, 170 F. Supp. 331 (E.D. Va. 1959), *app. dis.*, 359 U.S. 1006 (1959); *Harrison* v. *Day*, 200 Va. 439, 106 S.E. 2d 636 (1959) (decided the same day as *James* v. *Almond*, *supra*).

[2] *See Cooper* v. *Aaron*, 358 U.S. 1 (1958); *Armstrong* v. *Board of Education of City of Birmingham, Ala.*, 323 F. 2d 333 (5th Cir. 1963), *cert. denied sub nom. Gibson* v. *Harris*, 376 U.S. 908 (1964); *Brewer* v. *Hoxie School District No. 46*, 238 F. 2d 91 (8th Cir. 1956); *Holmes* v. *Danner*, 191 F. Supp. 394 (M.D. Ga. 1961), *stay denied*, 364 U.S. 939 (1961).

[3] *See Northcross* v. *Board of Education of City of Memphis*, 302 F. 2d 818 (6th Cir. 1962); *Manning* v. *Board of Public Instruction*, 277 F. 2d 370 (5th Cir. 1960); *Gibson* v. *Board of Public Instruction, Dade County, Fla.*, 272 F. 2d 763 (5th Cir. 1959); *Orleans Parish School Board* v. *Bush*, 242 F. 2d 156 (5th Cir. 1957); *United States Commission on Civil Rights, Civil Rights USA—Public Schools, Southern States*, 2–17 (1962).

[4] *See Griffin* v. *County School Board of Prince Edward County*, 377 U.S. 218 (1964); *Hall* v. *St. Helena Parish School Board*, 197 F. Supp. 649 (E.D. La. 1961, *aff'd*, 368 U.S. 515 (1962).

of-choice."[5] One by one these devices have been condemned by the Supreme Court:

> [T]he constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the *Brown* case can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation whether attempted "ingeniously or ingenuously." *Cooper* v. *Aaron*, 358 U.S. 1, 17 (1958).

Neither these agencies, nor school boards, nor local communities have the right to put roadblocks in the way of effective integration. The Court has declared that "the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools." *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19, 20 (1969).

Today, I fear, we behold the emergence of a further stratagem—the carving out of new school districts in order to achieve racial compositions more acceptable to the white community. The majority frankly acknowledges the "serious danger that the creation of new school districts may prove to be yet another method to obstruct the transition from racially separate school systems to school systems in which no child is denied the right to attend a school on the basis of race," *Emporia, supra* at 4. However, the court fashions a new and entirely inappropriate doctrine to avert that danger. It directs District Courts to weigh and assess the various purposes that may have moved

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[5] *See Green* v. *County School Board*, 391 U.S. 430 (1968); *Raney* v. *Board of Education*, 391 U.S. 443 (1968); *Monroe* v. *Board of Commissioners*, 391 U.S. 450 (1968).

the proponents of the new school district, with the objective of determining which purpose is dominant. District Courts are told to intercede *only* if they find that racial considerations were the *primary* purpose in the creation of the new school units.[6] I find no precedent for this test and it is neither broad enough nor rigorous enough to fulfill the Constitution's mandate. Moreover, it cannot succeed in attaining even its intended reach, since resistant white enclaves will quickly learn how to structure a proper record—shrill with protestations of good intent, all consideration of racial factors muted beyond the range of the court's ears.[7]

If challenged state action has a racially discriminatory effect, it violates the equal protection clause unless a compelling and overriding legitimate state interest is demonstrated. This test is more easily applied, more fully implements the prohibition of the Fourteenth Amendment and has already gained firm root in the law. The Supreme Court has explicitly applied this test to state criminal statutes which on their face establish racial classifications. In 1964, striking down a Florida criminal statute which forbade a man and woman of different races to "habitually live in and occupy in the nighttime the same room," the Court stated in an opinion written by Justice White:

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[6] The majority's test as stated in *Emporia*, *supra*, is as follows: "Is the primary purpose a benign one or is the claimed benign purpose merely a cover-up for racial discrimination?"

[7] The impracticability of the majority's test is highlighted by the dilemma in which the District Judges found themselves in *Scotland Neck:* "In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck * * *. *United States* v. *Halifax County Board of Education*, 314 F. Supp. 65, 72 (E.D.N.C. 1970)."

> Normally, the widest discretion is allowed the legislative judgment * * *; and normally that judgment is given the benefit of every conceivable circumstance which might suffice to characterize the classification as reasonable rather than arbitrary and invidious. [Citations] But we deal here with a classification based upon the race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," *Bolling* v. *Sharpe,* 347 U.S. 497, 499; and subject to the most "rigid scrutiny," *Korematsu* v. *United States,* 323 U.S. 214, 216; and "in most circumstances irrelevant" to any constitutionally acceptable legislative purpose, *Hirabayashi* v. *United States,* 320 U.S. 810, 100.

McLaughlin v. *Florida,* 379 U.S. 184, 191–92 (1964). Thus, the Court held that the proper test to apply in that case was "whether there *clearly appears* in the relevant materials some *overriding* statutory purpose *requiring* the proscription of the specified conduct when engaged in by a white and a Negro, but not otherwise." *Id.* at 192 [emphasis added]. To the further argument that the Florida statute should be upheld because ancillary to and serving the same purpose as an anti-miscegenation statute presumed valid for the purpose of the case, the Court replied:

> There is involved here an exercise of the state police power which trenches upon the constitutionally protected freedom from invidious official discrimination based on race. Such a law, even though enacted pursuant to a valid state interest, bears a heavy burden of justification, as we have said, and will be upheld only if it is

> *necessary,* and not merely rationally related, to the accomplishment of a permissible state policy. *Id.* at 196 [emphasis added].

There were no dissents in the *McLaughlin* case. The two concurring opinions serve to underline and buttress the test applied by the majority. Justice Harlan, joining the Court's opinion, added:

> I agree with the Court * * * that necessity, not mere reasonable relationship, is the proper test, see *ante,* pp. 195–196. *NAACP* v. *Alabama,* 377 U.S. 288, 307–308; *Saia* v. *New York,* 334 U.S. 558, 562; *Martin* v. *Struthers,* 319 U.S. 141, 147; *Thornhill* v. *Alabama,* 310 U.S. 88, 96; *Schneider* v. *State,* 308 U.S. 147, 161, 162, 164; see *McGowan* v. *Maryland,* 366 U.S. 420, 466–467 (Frankfurter, J., concurring).
>
> The fact that these cases arose under the principles of the First Amendment does not make them inapplicable here. Principles of free speech are carried to the States only through the Fourteenth Amendment. The necessity test which developed to protect free speech against state infringement should be equally applicable in a case involving state racial discrimination—prohibition of which lies at the very heart of the Fourteenth Amendment.

Id. at 197. Justice Stewart, speaking for himself and Justice Douglas, expressed the view that the majority's test did not go far enough as applied to a *criminal* statute because no overriding state purpose *could* exist.

> * * * I cannot conceive of a valid legislative purpose under our Constitution for a state law which makes the color of a person's skin the test of whether his conduct is a criminal offense. * * * I think it is simply not possible for a state law to be valid under our Constitution which makes the criminality of an act depend upon the race of the actor.

Id. at 198.

Three years later the Court dealt with a Virginia statute prohibiting interracial marriages. The statute was determined to be unconstitutional under the *McLaughlin* test, expressed here in these terms:

> At the very least, the Equal Protection Clause demands that racial classifications, especially suspect in criminal statutes, be subjected to the "most rigid scrutiny," *Korematsu* v. *United States,* 323 U.S. 214, 216 (1944), and, if they are *ever* to be upheld, they must be shown to be *necessary* to the accomplishment of some permissible state objective, independent of the racial discrimination which it was the object of the Fourteenth Amendment to eliminate. * * *
>
> There is patently no legitimate *overriding* purpose independent of invidious racial discrimination which justifies this classification.

Loving v. *Virginia,* 388 U.S. 1, 11 (1967) [emphasis added]. Justice Stewart filed a separate concurring opinion—reiterating his belief that there could never be a sufficiently compelling state purpose to justify a criminal statute based on racial classification. *Id.* at 13.

Although *McLaughlin* and *Loving* dealt with criminal statutes and express racial classifications, numerous lower court decisions apply the strict "compelling" or "overriding" purpose standard in the civil area as well as the criminal, and extend its application to facially neutral state action which, in reality, is racially discriminatory in its effect. The definitive case is *Jackson* v. *Godwin,* 400 F. 2d 529 (5th Cir. 1968), in which Judge Tuttle meticulously and exhaustively examines the lower court cases, including those "which have struck down rules and regulations which on their face appear to be non-discriminatory but which *in practice and effect,* if not purposeful design, impose a

heavy burden on Negroes and not on whites, and operate in a racially discriminatory manner." *Id.* at 538–39 [emphasis added]. He concludes his analysis with this formulation of the constitutional standard:

> In both the areas of racial classification and discrimination and First Amendment freedoms, we have pointed out that stringent standards are to be applied to governmental restrictions in these areas, and rigid scrutiny must be brought to bear on the justifications for encroachments on such rights. The State must strongly show some substantial and controlling interest which requires the subordination or limitation of these important constitutional rights, and which justifies their infringement, [citations]; and in the absence of such compelling justification the state restrictions are impermissible infringements of these fundamental and preferred rights. *Id.* at 541.

The most recent application of the "compelling and overriding state interest" test is to be found in the Fifth Circuit's decision in *Hawkins* v. *Town of Shaw,* F. 2d (5th Cir. 1971). The plaintiffs, Negro residents of Shaw, Mississippi, alleged racial discrimination by town officials in the provision of various municipal services. The District Court dismissed the complaint, applying a test akin to that used by the majority in this case: "If actions of public officials are shown to have rested upon rational considerations, irrespective of race or poverty, they are not within the condemnation of the Fourteenth Amendment, and may not be properly condemned upon judicial review." *Hawkins* v. *Town of Shaw,* 303 F. Supp. 1162, 1168 (N.D. Miss. 1969). The Fifth Circuit reversed, pointing to the standard set forth in *Jackson* v. *Godwin, supra,* and stating, "In applying this test, defendants' actions may be justified only if they show a compel-

ling state interest." *Hawkins* v. *Town of Shaw*, F. 2d (5th Cir. 1971) (slip opinion at 3).

In *Hawkins* the Fifth Circuit specifically considered the relevance of the defendant's "intent," or "purpose" as the majority in our case would label it. Conceding that "the record contains no direct evidence aimed at establishing bad faith, ill will or an evil motive on the part of the Town of Shaw and its public officials," *Id.* at (slip opinion at 12), the court held: "Having determined that no compelling state interests can possibly justify the discriminatory *results* of Shaw's administration of municipal services, we conclude that a violation of equal protection has occurred." *Id.* at (slip opinion at 13) [emphasis in original text].

Just as Shaw's administration of municipal services violates the constitutional guarantee of equal protection, so too does the creation of the new Scotland Neck School District.[8] The challenged legislation carves an enclave, 57% white and 43% black, from a previously 22% white and 77% black school system.[9] No compelling or overriding state interest justifies the new district, and its formation has a racially discriminatory effect by allowing the white residents of Scotland Neck to shift their children from a school district where they are part of a 22% minority to one where they constitute a 57% majority.

The prevailing opinion draws comfort from the fact that the new school district, because all children in the same grade will attend the same school, will be "integrated throughout." I dare say a 100% white

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[8] Since even the majority concedes that the Littleton-Lake Gaston School District must be enjoined as a racially discriminatory scheme in violation of the Fourteenth Amendment, I do not discus the facts of that case.

[9] One percent of the pupils in Halifax County are Indians.

school district would also be "integrated throughout." The relevant question is what *change* in degree of integration has been effected by the creation of the new district. Here the change is an increase in the percentage of white pupils from 22% to 57%. The Constitution will no more tolerate measures establishing a ratio of whites to blacks which the whites find *more* acceptable than it will measures totally segregating whites from blacks. The 35% shift here is no less discriminatory because it is a shift from 22% to 57% than if it were one from 65% to 100%.[10]

The majority opinion makes the puzzling concession that:

> If the effect of this act was the continuance of a dual school system in Halifax County or the establishment of a dual system in Scotland Neck it would not withstand challenge under the equal protection clause, but we have concluded that it does not have that effect.

The situation here is that the Act sets up in Halifax County two school systems, one with a 50:43 white to black ratio and the other with a 19:80 white to black ratio, in place of one school system with a 22:77 white to black ratio. Thus, the Act constructs a dual school system in Halifax County by the simple expedient of labeling the two sets of schools as separate districts. The majority does not explain

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[10] Judge Winter properly emphasizes in his separate opinion that the effect of the new school districts must be measured by comparing "the racial balance in the preexisting unit with that in the new unit sought to be created, and that remaining in the preexisting unit after the new unit's creation." Focusing, as do I, on the 35% increase in the white student population of the new Scotland Neck School District, he quite correctly notes that "[a] more flagrant example of the creation of a white haven, or a more nearly white haven, would be difficult to imagine."

why the Act can *create* a dual school system in Halifax County if it could not *continue* a dual system there. Nor do they explain why the Act can *establish* a dual school system in Halifax County if it could not *establish* one in Scotland Neck. Obviously no explanation is possible and the legislation severing the Scotland Neck School District fails to meet the test of the equal protection clause.

II

Even if I accepted the majority's formulation as the proper doctrine to control these cases, which I certainly do not, I think their test is misapplied in *Scotland Neck*. The court accepts at face value the defendants' assertions that local control and increased taxation were the dominant objectives to be fulfilled by the new district, with the ultimate goal of providing quality education to the students of Scotland Neck. The facts plainly are to the contrary and demonstrate that, in projecting the new district, race was the primary consideration. The District Court specifically found that a significant factor in the creation of the new school district was

> a desire on the part of the leaders of Scotland Neck to preserve a ratio of black to white students in the schools of Scotland Neck that would be acceptable to white parents and thereby prevent the flight of white students to the increasingly popular all-white private schools in the area.

United States v. *Halifax County Board of Education*, 314 F. Supp. 65, 72 (E.D.N.C. 1970). The defendants do not contest this finding.[11]

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[11] The defendants assert instead that the prevention of white flight is a legitimate goal. However, the Supreme Court in

What starkly exposes the true purpose impelling the redistricting adventure and belies the professions of lofty objectives is the transfer plan initially adopted by the Scotland Neck City Board of Education.[12] Under that plan, parents residing within Halifax County but outside the newly fashioned district could place their children in the Scotland Neck Schools by paying a fee ranging from $100 to $125. The use of transfer plans of this nature as devices to thwart the mandate of *Brown* v. *Board of Education, supra,* has not been uncommon,[13] and the majority here has no difficulty in recognizing that the Scotland Neck transfer plan was a contrivance to perpetuate segregation. Initial applications for transfer under the plan were received from 350 white and only 10 black children in Halifax County. The net result would have been a racial mix of 74% white, 26% black in the Scotland Neck School District, contrasting with 82% black, 17% white, 1% Indian, in the rest of Halifax County.

Monroe v. *Board of Commissioners*, 391 U.S. 450, 459 (1968), has directly addressed itself to this argument, and rejected it out of hand: "We are frankly told in the Brief that without the transfer option it is apprehended that white students will flee the school system altogether. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them." *Brown II*, at 300.

See also Brunson v. *Board of Trustees of School District No. 1 of Clarendon County*, 429 F. 2d 820 (4th Cir. 1970); *Anthony* v. *Marshal County Board of Education*, 409 F. 2d 1287 (5th Cir. 1969). The defendants' candid admission serves only to emphasize the dominant racial considerations behind the whole scheme.

[12] Although the School Board later abandoned the transfer plan, its initial adoption nevertheless reflects the Board's intentions.

[13] *See Monroe* v. *Board of Commissioners*, 391 U.S. 450 (1968); *Gross* v. *Board of Education*, 373 U.S. 683 (1963).

Thus the transfer plan would have operated directly contrary to the obligation to desegregate the schools of Halifax County and distinctly evidences the design of the Scotland Neck School Board to bring into existence a white haven.

Curiously enough, despite its condemnation of the transfer plan, the court declares the plan not relevant in assessing the intent of the North Carolina legislature in enacting Chapter 31, since there is no evidence in the record to show that the legislative body knew a transfer plan would be effected. This reasoning is fallacious for legislators are not so naive and, in any event, are chargeable with the same motivations as the local communities concerned. The relevant inquiry under the majority's test is into the purposes for which state action was taken and, as Judge Winter observes in his separate opinion, when dealing with statutes designed to affect local communities, one must look to the localities to determine the purposes prompting the legislation.[14]

The size of the new school district in Scotland Neck is also a crucial factor to be taken into account in judging the genuineness of the alleged goal of quality education. The Report of the Governor's Study Commission on the Public School System of North Carolina favors the *consolidation* of school districts to increase efficiency in the operations of the public schools,

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[14] Moreover, as the District Court noted, local newspapers, including the *Raleigh News and Observer*, suggested that racial considerations, and not a concern for better educational, motivated the legislation. For example, on February 14, 1969, a month before Chapter 31 was enacted, the *Raleigh News and Observer* commented editorially that the bill provided for an "educational island" dominated by whites and on February 22, 1969, suggested that if the bill passed, it would encourage other school districts to resort to similar legislation.

and suggests 9,000–10,000 as a desirable pupil population, with 3,500 to 4,000 as a minimum. Scotland Neck's minuscule new school district for 695 pupils—one fifth of the suggested minimum—is an anomaly that runs directly counter to the recommendation of the Study Commission that schools be merged into larger administrative units. Moreover, if quality education were the true objective and Scotland Neck residents were deeply concerned with increasing revenue to improve their schools, one might have expected that in-depth consideration would have been given to the financial and educational implications of the new district. However, the District Court found that:

> [t]here were no studies made prior to the introduction of the bill with respect to the educational advantages of the new district, and there was no actual planning as to how the supplement would be spent although some people assumed it would be spent on teachers' supplements.

United States v. *Halifax County Board of Education*, 314 F. Supp. at 74.

Also highly relevant in assessing the dominant purpose is the timing of the legislation splintering the Halifax County school system. During the 1967–68 school year the Halifax County School District maintained racially identifiable schools, and only 46 of the 875 students attending the Scotland Neck school were black. The next school year, under prodding by the Department of Justice, the Halifax County Board of Education assigned to the Scotland Neck school the entire seventh and eighth grades from an adjacent all-black county school, and promised to desegregate completely by 1969–70. A survey by the North Carolina State Department of Education in December 1968 recommended an integration plan which provided that

690 black and 325 white students should attend the Scotland Neck school. It was only then that the bill which later became Chapter 31 was introduced in the General Assembly of North Carolina in 1969. The fact that the Scotland Neck School District was not formed until the prospects for a unitary school system in Halifax County became imminent leads unmistakably to the conclusion that race was the dominant consideration and that the goal was to achieve a degree of racial apartheid more congenial to the white community.[15]

III

The court's incongruous holdings in these two cases, reversing the District Court in *Scotland Neck*, while affirming in the twin case, *Littleton-Lake Gaston*, cannot be reconciled. The uncontested statistics presented in *Scotland Neck* speak even louder in terms of race than the comparable figures for *Littleton-Lake Gaston*. The white community in Scotland Neck has sliced out a predominantly white school system from an overwhelmingly black school district. By contrast, the white community in Littleton-Lake Gaston was more restrained, gerrymandering a 46% white, 54% black, school unit from a county school system that was 27% white, 67% black.[16] The majority attempts to escape the inevitable implications of these statistics by attributing to the North Carolina legislature, which severed the Scotland Neck School District on March 3, 1969, benevolent motivation and obliviousness to the

[15] It is also noteworthy that while the Scotland Neck community claims that it had not been accorded a fair allocation of county school funds over a period of years, this apparently became intolerable only when the Department of Justice exerted pressure for immediate action to effectuate integration.

[16] Six percent of the pupils in Warren County are Indian.

racial objectives of the local white community. Yet the majority unhesitatingly finds a discriminatory purpose in the similar excision of the new Littleton-Lake Gaston School District by the same legislators only one month later, on April 11, 1969. The earlier statute no less than the later provided a refuge for white students and maximized preservation of segregated schools. The record and the District Court's opinion in *Scotland Neck,* no less than the record and the opinion in *Littleton-Lake Gaston,* are replete with evidence of discriminatory motivations. On their facts the two cases are as alike as two peas in a pod.

Judge Bryan soundly recognizes the discordance in the two holdings of the majority. The resolution he proposes is to reverse in both cases. This would indeed cure the inconformity, but at the cost of compounding the error. The correction called for lies in the opposite direction—affirmance in both cases.

IV

If, as the majority directs, federal courts in this circuit are to speculate about the interplay and the relative influence of divers motives in the molding of separate school districts out of an existing district, they will be trapped in a quagmire of litigation. The doctrine formulated by the court is ill-conceived, and surely will impede and frustrate prospects for successful desegregation. Whites in counties heavily populated by blacks will be encouraged to set up, under one guise or another, independent school districts in areas that are or can be made predominantly white.

It is simply no answer to a charge of racial discrimination to say that it is designed to achieve "quality education." Where the effect of a new school district is to create a sanctuary for white students, for which

no compelling and overriding justification can be offered, the courts should perform their constitutional duty and enjoin the plan, notwithstanding professed benign objectives.

Racial peace and the good order and stability of our society may depend more than some realize on a convincing demonstration by our courts that true equality and nothing less is precisely what we mean by our proclaimed ideal of "the equal protection of the laws." The palpable evasions portrayed in this series of cases should be firmly condemned and enjoined. Such examples of racial inequities do not go unheeded by the adversely affected group. They are noted and resented. The humiliations inflicted by such cynical maneuvers feed the fires of hostility and aggravate the problem of maintaining peaceful race relations in the land. In this connection it is timely to bear in mind the admonition of the elder Mr. Justice Harlan, dissenting in *Plessy* v. *Ferguson,* 163 U.S. 537, 560 (1896):

> The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law.

I dissent from the reversal in Nos. 14929 and 14930, *United States* v. *Scotland Neck City Board of Education,* — F. 2d — (4th Cir. 1971), and concur in the affirmance in No. 14990, *Turner* v. *Littleton-Lake Gaston School District,* — F. 2d — (4th Cir. 1971).

ALBERT V. BRYAN, *Circuit Judge,* dissenting: For me there is here no warrant for a decision different from the *Scotland Neck* and *Emporia* deter-

minations. This conclusion derives from the majority's exposition of the fact parallel of these cases with the circumstances of *Littleton-Lake Gaston*. The identicalness irresistibly argues a like disposition—reversal of the judgment on appeal.

WINTER, *Circuit Judge*, dissenting and concurring specially: I dissent from the majority's opinion and conclusion in No. 14,552, *Wright* v. *Council of City of Emporia*, — F. 2d — (4 Cir. 1971), and in Nos. 14929 and 14930, *United States* v. *Scotland Neck City Board of Education*, — F. 2d — (4 Cir. 1971). I concur in the judgment in No. 14990, *Turner* v. *Littleton-Lake Gaston School District*, — F. 2d — (4 Cir. 1971), and I can accept much of what is said in the majority's opinion. There is, however, a broader basis of decision than that employed by the majority on which I would prefer to rest.

Because the majority makes the decision in *Emporia* the basis of decision in *Scotland Neck* and distinguishes them from *Littleton-Lake Gaston*, I will discuss the cases in that order. I would conclude that the cases are indistinguishable, as does my Brother Bryan, although I would also conclude that each was decided correctly by the district court and that in each we should enjoin the carving out of a new school district because it is simply another device to blunt and to escape the ultimate reach of *Brown* v. *Board of Education*, 347 U.S. 483 (1954), and subsequent cases.

I

While the legal problem presented by these cases is a novel one in this circuit, I think the applicable legal standard is found in the opinion of the Supreme Court in Green v. County School Board of New Kent

County, 391 U.S. 430 (1968). In rejecting a "freedom of choice" plan under the circumstances presented there, the Court articulated the duties of both a school board and a district court in implementing the mandate of *Brown*:

> The burden on a school board today is to come forward with a plan that promises realistically to work, *and promises realistically to work now.*
>
> * * * * *
>
> Where the court finds the board to be acting in good faith and the proposed plan to have real prospects for dismantling the state-imposed dual system *"at the earliest possible date,"* then the plan may be said to provide effective relief. Of course, the availability to the board of other more promising courses of action may indicate a lack of good faith; *and at the least it places a heavy burden upon the board to explain its preference for an apparently less effective method.* [emphasis added.]

391 U.S. at 439.

In each of the instant cases, following a protracted period of litigation, a plan designed finally to institute a unitary school system was jeopardized by the attempt of a portion of the existing school district to break away and establish its own schools. I think the advocates of such a subdivision bear the "heavy burden" of persuasion referred to in *Green* because, as in that case, the dominant feature of these cases is the last-minute proposal of an alternative to an existing and workable integration plan. Factually, these cases are not significantly dissimilar from *Green*. Each act of secession would necessarily require the submission and approval of new integration plans for the newly-created districts, and thus each is tantamount to the proposal of a new plan. And while the act giving rise to the alternative approach here is

state legislation rather than a proposal of the local school board, the fact remains that the moving force in the passage of each piece of legislation [1] was of local origin. Few who have had legislative experience would deny that local legislation is enacted as a result of local desire and pressure. It is, therefore, to local activities that one must look to determine legislative intent.

Application of the "heavy burden" standard of *Green* to the instant cases is also supported by considerations of policy. In an area in which historically there was a dual system of schools and at best grudging compliance with *Brown,* we cannot be too careful to search out and to quash devices, artifices and techniques furthered to avoid and to postpone full compliance with *Brown.* We must be assiduous in detecting racial bias masking under the guise of quality education or any other benevolent purpose. Especially must we be alert to ferret out the establishment of a white haven, or a relatively white haven, in an area in which the transition from racially identifiable schools to a unitary system has proceeded slowly and largely unwillingly, where its purpose is at least in part to be a white haven. Once a unitary system has been established and accepted, greater latitude in redefinition of school districts may then be permitted.

Given the application of the *Green* rationale, the remaining task in each of these cases is to discern whether the proposed subdivision will have negative effects on the integration process in each area, and, if so, whether its advocates have borne the "heavy burden" of persuasion imposed by *Green.*

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[1] In *Emporia*, the implementing legislation for the separation already existed; however, the local people alone made the choice to exercise the option which the statute provided.

II

EMPORIA SCHOOL DISTRICT

The City of Emporia, located within the borders of Greensville County, Virginia, became a city of the second class on July 31, 1967, pursuant to a statutory procedure dating back to the 19th Century. While it had the state-created right at that time to establish its own school district, it chose instead to remain within the Greensville County system until June, 1969. It is significant that earlier in this same month, more than a year after it had invalidated a "freedom of choice" plan for the Greensville County system, the district court ordered into effect a "pairing" plan for the county as a further step toward full compliance with *Brown* and its progeny.

The record amply supports the conclusion that the creation of a new school district for the City of Emporia would, in terms of implementing the principles of *Brown,* be "less effective" than the existing "pairing" plan for the county system. In the first place, the delay involved in establishing new plans for the two new districts cannot be minimized in light of the Supreme Court's statement in *Green* that appropriate and effective steps must be taken at once. See also *Carter* v. *West Feliciana School Board,* 396 U.S. 290 (1970); *Alexander* v. *Holmes County Bd. of Ed.,* 396 U.S. 19 (1969). Secondly, as the district court found, the separation of Emporia from Greensville County would have a substantial impact on the racial balance both within the county and within the city. Within the entire county, there are 3,759 students in a racial ratio of 34.1% white and 65.9% black. Within the city there are 1,123 students, 48.3% of whom are white and 51.7% are black. If the city is permitted to establish

its own school system, the racial ratio in the remainder of the county will change to 27.8% white and 72.2% black.[2] To me the crucial element in this shift is not that the 48.3%–51.7% white to black ratio in the town does not constitute the town a white island in an otherwise heavily black county and that a shift of 6% in the percentage of black students remaining in the county is not unacceptably large. Whenever a school area in which racial separation has been a historical fact is subdivided, one must compare the racial balance in the preexisting unit with that in the new unit sought to be created, and that remaining in the preexisting unit after the new unit's creation. A substantial shift in any comparable balances should be cause for deep concern. In this case the white racial percentage in the new unit will increase from 27.8% to 48.3%. To allow the creation of a substantially whiter haven in the midst of a small and heavily black area is a step backward in the integration process.

And finally, the subdivision of the Greensville County school district is "less effective" in terms of the principles of *Brown* because of the adverse psychological effects on the black students in the county which will be occasioned by the secession of a large portion of the more affluent white population from the county schools. If the establishment of an Emporia school district is not enjoined, the black students in

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[2] As part of the establishment of the new system, the Emporia school board proposed a transfer plan whereby Emporia will accept county students upon payment of tuition. The record does not contain any projection of the number of county students who would avail themselves of the plan although in argument counsel was candid in stating that only white parents would be financially able to exercise the option. The transfer plan was quickly abandoned when it became apparent that it might not earn the approval of the district court.

the county will watch as nearly one-half the total number of white students in the county abandon the county schools for a substantially whiter system. It should not be forgotten that psychological factors, and their resultant effects on educational achievement, were a major consideration in the Supreme Court's opinion in *Brown*.

In my mind, the arguments advanced by the residents of Emporia in support of their secession from the county school system do not sustain the "heavy burden" imposed by *Green*. The essence of their position is that, by establishing their own schools over which they will exercise the controlling influence, they will be able to improve the quality of their children's education. They point to a town commitment to such a goal and, in particular, to a plan to increase educational revenues through increased local taxation. They also indicate that they presently have very little voice in the management of the county school system. Although, as the district court found, the existence of these motives is not to be doubted, I find them insufficient in considering the totality of the circumstances.

While the district court found that educational considerations were *a* motive for the decision to separate, it also found that "race was a factor in the city's decision to secede." Considering the timing of the decision in relation to the ordering into effect of the "pairing" plan, as well as the initial proposal of a transfer plan, this finding is unassailable. *Green* indicates that the absence of good faith is an important consideration in determining whether to accept a less effective alternative to an existing plan of integration. The lack of good faith is obvious here.

When the educational values which the residents of Emporia hope to achieve are studied, it appears that the secession will have many deleterious consequences.

As found by the district court, the high school in the city will be of less than optimum size. County pupils will be cut off from exposure to a more urban society. The remaining county system will be deprived of leadership ability formerly derived from the city. It will suffer from loss of the city's financial support, and it may lose teachers who reside in the city. To me, these consequences, coupled with the existence of the racial motive, more than offset the arguments advanced by the residents of Emporia. The separation, with its negative effects on the implementation of the principles of *Brown,* should be enjoined.

III

SCOTLAND NECK SCHOOL DISTRICT

As the majority's opinion recites, the history of resistance to school desegregation in the Halifax County school system parallels the history of the attempts on the part of the residents of Scotland Neck to obtain a separate school district. The significant fact is that in spite of otherwise apparently cogent arguments to justify a separate system, the separate system goal was not realized until, as the result of pressure from the United States Department of Justice, the Halifax County Board agreed to transfer the seventh and eighth grade black students from the previously all-black Brawley School, outside the city limits of Scotland Neck, to the Scotland Neck School, previously all-white. Chapter 31 followed thereafter as soon as the North Carolina legislature met. It is significant also that the Halifax County Board reneged on its agreement with the Department of Justice shortly before the enactment of Chapter 31.

The same negative effects on achieving integration which are present in the Emporia secession are present

here. Although the City of Scotland Neck has already submitted a plan for its school district, delay will result in devising such a plan for the remaining portion of Halifax County. The racial balance figures show that the existing county system has 8,196 (77%) black students, 2,357 (22%) white students, and 102 (1%) Indian students. Within the city system, there would be 399 (57.4%) white and 296 (42.6%) black, while the remaining county system would be comprised of 7,900 (80%) black, 1,958 (19%) white and 102 (1%) Indian. The difference between the percentage of white students within the existing system and the newly-created one for Scotland Neck is thus 35%. A more flagrant example of the creation of a white haven, or a more nearly white haven, would be difficult to imagine. The psychological effects on the black students cannot be overestimated.

The arguments advanced on behalf of Scotland Neck are likewise insufficient to sustain the burden imposed by *Green*. Even if it is conceded that one purpose for the separation was the local desire to improve the educational quality of the Scotland Neck schools, the record supports the conclusion of the district court that race was a major factor. If the basic purpose of Chapter 31 could not be inferred from the correlation of events concerning integration litigation and the attempt to secede, other facts make it transparent. As part of its initial plan to establish a separate system, Scotland Neck proposed to accept transfer students from outside the corporate limits of the city on a tuition basis. Under this transfer system, the racial balance in the Scotland Neck area was 749 (74%) white to 262 (26%) black, and the racial balance in the rest of Halifax County became 7,934 (82%) black, 1,608 (17%) white, and 102

(1%) Indian.[3] This proposal has not yet been finally abandoned. In oral argument before us, counsel would not tell us forthrightly that this would not be done, but rather, equivocally indicated that the proposal would be revived if we, or the district court, could be persuaded to approve it. I cannot so neatly compartmentalize Chapter 31 and the transfer plan as does the majority, and conclude that one has no relevance to the other. To me, what was proposed, and still may be attempted, by those who provided the motivation for the enactment of Chapter 31 is persuasive evidence of what Chapter 31 was intended to accomplish.

In terms of educational values, the separation of Scotland Neck has serious adverse effects. Because Scotland Neck, within its corporate boundaries, lacked sufficient facilities even to operate a system to accommodate the only 695 pupils to be educated, it purchased a junior high school from Halifax County. This school is located outside of the corporate boundaries of Scotland Neck. The sale deprives the students of Halifax County, outside of Scotland Neck of a school facility. The record contains abundant, persuasive evidence that the best educational policy and the nearly unanimous opinion of professional educa-

[3] There is apparent error in the computations made by the district court in this regard. The district court found that the net effect of the transfer plan would be to add 350 white students to the city system. Added to the resident white students (399), the total is 749, not 759 as indicated in the opinion of the district court. The district court's figure of 262 black students in the city under the transfer plan (a net loss of 34) appears correct. But when these two totals are subtracted from the figures given for the existing county system in 1968–1969 (2,357 white, 8,196 black and 102 Indian), the effects on the county are as shown above.

tors runs contrary to the creation of a small, separate school district for Scotland Neck. A study by the State of North Carolina indicates that a minimally acceptable district has 3,500–4,000 pupils.

On the facts I cannot find the citizens of Scotland Neck motivated by the benign purpose of providing additional funds for their schools; patently they seek to blunt the mandate of *Brown*. Even if additional financial support for schools was a substantial motive, the short answer is that a community should not be permitted to buy its way out of *Brown*. Here again, the "heavy burden" imposed by *Green* has not been sustained.

IV

LITTLETON-LAKE GASTON SCHOOL DISTRICT

The majority's opinion correctly and adequately discloses the legislative response to court-ordered compliance with *Brown* and its progeny. That response was the creation of the Warrenton City School District and the Littleon-Lake Gaston School District. The overall effect of the creation of the Littleton-Lake Gaston district, the proposed tuition transfer plan, and the creation of the Warrenton City district (an act enjoined by the district court and not before us) would be to permit more than 4 out of 5 white students to escape the heavily black schools of Warren County. Even without the transfer plan, the racial balance in the Littleton-Lake Gaston district would show nearly 20% more white students than in the existing Warren County unit. To permit the subdivision would be to condone a devastating blow to the progress of school integration in this area.

Despite the assertion of the benign motives of remedying long-standing financial inequities and the

preservation of local schools, I agree with the majority that the "primary" purpose and effect of the legislation creating the Littleton-Lake Gaston school district was to carve out a refuge for white students and to preserve to the fullest possible extent segregated schools. Aside from questions of motivation, the record shows that the new district was established to accommodate a total of only 659 students, despite state policy to the contrary and expert opinion that its small size rendered it educationally not feasible. And, as the majority indicates, there is no evidence that the residents of the Littleton area have been deprived of their proportionate voice in the operation of the schools of Warren County. In short, there is a complete absence of persuasive argument in favor of the creation of the new district.

While I agree that the injunction should stand, I disagree that injunctive relief should be granted only when racial motivation was the "primary" motive for the creation of the new district. Consistent with *Green*, we should adopt the test urged by the government in *Scotland Neck*, i.e., to view the results of the severance as if it were a part of a desegregation plan for the original system—that is, to determine whether the establishment of a new district would, in some way, have an adverse impact on the desegregation of the overall system. By this test the injunction would stand in the *Littleton-Lake Gaston* case, as well as in each of the two other cases, because in each of the three there is at least some racial motivation for the separation and some not insubstantial alteration of racial ratios, some inherent delay in achieving an immediate unitary system in all of the component parts, and an absence of compelling justification for what is sought to be accomplished.

BUTZNER, *Circuit Judge:* This appeal involves the same case in which I decided questions concerning the school board's compliance with the Fourteenth Amendment when I served on the district court.* While the details differ, the same basic issues remain—the validity of measures taken to disestablish a dual school system, to create a unitary system, and to assign pupils and faculty to achieve these ends.

> Title 28 U.S.C. § 47 provides: "No judge shall hear or determine an appeal from the decision of a case or issue tried by him."

Recently, Judge Craven carefully examined this statute and the cases and authorities which cast light on it. He concluded that he should not sit on an appeal of a case in which he had participated as a district judge when the ultimate questions were the same: "what may a school board be compelled to do to dismantle a dual system and implement a unitary one, or how much school board action is enough?" See Swann v. Charlotte-Mecklenburg Bd. of Ed., 431 F. 2d 135, (4th Cir. 1970). Following the sound precedent established by Judge Craven, I believe that I must disqualify myself from participating in this appeal.

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* See *Wright* v. *County School Bd. of Greensville County, Va.*, 252 F. Supp. 378 (E.D. Va. 1966). Two other opinions were not published.

APPENDIX C

[Filed August 25, 1969, Samuel A. Howard, Clerk, U.S. District Court, E. Dist. No. Car.]

In the United States District Court for the Eastern District of North Carolina, Wilson Division

No. 1128—Civil

UNITED STATES OF AMERICA, PLAINTIFF

v.

HALIFAX COUNTY BOARD OF EDUCATION, A BODY CORPORATE; FERD L. HARRISON, AS MAYOR OF THE TOWN OF SCOTLAND NECK; J. A. ANDREWS, F. G. SHEARIN, AND J. I. WALSTON, D. E. JOSEY, JR., AS MEMBERS OF THE BOARD OF COMMISSIONERS OF THE TOWN OF SCOTLAND NECK; THE TOWN OF SCOTLAND NECK, A BODY CORPORATE; AND THE SCOTLAND NECK CITY BOARD OF EDUCATION, A BODY CORPORATE, DEFENDANTS

ORDER

LARKINS, *District Judge:* This cause coming on to be heard before the Court on a motion for a preliminary injunction filed by the plaintiff pursuant to the provisions of Sections 407 (a) and (b) of the Civil Rights Act of 1964, as codified, 42 U.S.C.A. §§ 2000c–6 (a) and (b) seeking to restrain the defendants from giving any force or effect to the provisions of Chapter 31 of the North Carolina Session Laws of 1969, an Act to establish a separate administrative unit for the operation of the public schools of the Town of Scotland Neck, North Carolina; and due

notice having been given to the defendants: and the Court having considered the evidence and the argument of counsel and being fully advised in the premises and it appearing to the Court that effectuation of the terms of the Act will result in the operation of the schools of Scotland Neck, North Carolina, and Halifax County, North Carolina, a racially discriminatory basis to the irreparable damage of the United States and the Negro pupils of Halifax County; and it further appearing to the Court that no injunctive relief as to effectuation of the provisions of Chapter 31 is being sought against the defendant Halifax County Board of Education; and that the defendants Ferd L. Harrison, as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr., as members of the Board of Commissioners of the Town of Scotland Neck, and the Town of Scotland Neck, a body corporate, are not proper parties to this action;

It is, therfore, ORDERED, ADJUDGED and DECREED:

THAT the motion to dismiss filed on behalf of the defendants Ferd L. Harrison, as Mayor of the Town of Scotland Neck, J. A. Andrews, F. G. Shearin, J. I. Walston, D. E. Josey, Jr., as members of the Board of Commissioners of the Town of Scotland Neck, and the Town of Scotland Neck, a body corporate, be, and the same hereby is allowed; and

THAT the defendant Scotland Neck City Board of Education and its officers, agents, employees and successors are hereby enjoined from giving any force or effect to the provisions of Chapter 31 and from taking any action pursuant to the provisions of Chapter 31 pending a final determination on the merits of the issues raised in the present action; and

THAT pursuant to the provisions of Rule 65(c) of the Federal Rules of Civil Procedure, no security shall

be required of the plaintiff, United States of America; and

THAT this ORDER shall become effective as of 12:00 Noon on Monday, August 25, 1969; and

THAT a Memorandum Opinion subsequently will be filed in this action; and

THAT the Clerk shall serve copies of this ORDER upon all counsel of record, and the defendants.

Let this ORDER be entered forthwith.

JOHN D. LARKINS, JR.,
United States District Judge.
ALGERNON L. BUTLER,
United States District Judge.

RALEIGH, NORTH CAROLINA, *August 25, 1969.*

[Filed, August 25, 1969, Samuel A. Howard, Clerk, U.S. District Court, E. Dist. No. Car.]

In the United States District Court for the Eastern District of North Carolina, Wilson Division

No. 1128—Civil

UNITED STATES OF AMERICA, PLAINTIFF

v.

HALIFAX COUNTY BOARD OF EDUCATION, A BODY CORPORATE, AND THE SCOTLAND NECK CITY BOARD OF EDUCATION, A BODY CORPORATE, DEFENDANTS

MEMORANDUM OPINION

LARKINS, *District Judge:* This Court entered its ORDER on August 25, 1969, effective at 12:00 noon. The Clerk served copies of said ORDER upon all defendants and counsel of record.

Pursuant to said ORDER this MEMORANDUM OPINION is filed in support of said ORDER and is included therein by reference.

This cause coming on to be heard before the United States District Judges for the Eastern District of North Carolina, and being heard upon the motions of plaintiffs and additional plaintiffs for a preliminary injunction and for a declaratory judgment; and due notice having been given to all defendants; and the Court having considered the evidence, the stipulations, the briefs and arguments of counsel, and being fully advised in the premises, makes the following:

FINDINGS OF FACT

1. On March 3, 1969, the General Assembly of North Carolina ratified a measure designated Chapter 31, Session Laws of North Carolina 1969, creating the Scotland Neck City Administrative Unit in Halifax County to operate the public schools in said unit; providing that all public school property located within the unit should become the property of the unit; providing for a supplemental tax levy, and directing a special election to authorize the establishment of said unit and the levying of said tax. The voters approved said proposals.

2. The Board of Education of the Scotland Neck City unit permits transfers of students in and out of said units. Scotland Neck City has established a tuition charge of $100.00 a year for the first child in a family, $25.00 for the second child, $25.00 for the third child, and each subsequent child per family free, for all students transferring into said unit.

3. During the school year 1968–69, all the public schools of Halifax County were operated by the Halifax County Board of Education. There was a

total of 10,655 students. The racial composition of the county school system was approximately as follows: White 2,357 (22%); Negro, 8,196 (78%), and Indian, 102.

4. The Scotland Neck City unit has approximately 695 *resident* students: White, 399 (57.4%); Negro, 296 (42.6%). The school facilities within the unit will accommodate approximately 1,000 students. Since the creation of the City unit under the 1969 Act, 350 Whites, and 10 Negroes have transferred from the county schools into the City unit; 44 Negroes in the eleventh and twelfth grades have transferred from the city to the Brawley High School in the county system. The net effect on the City unit for the school year 1969–70 is as follows: White, 759 (74%); Negro, 262 (26%).

5. The racial composition of the county school system as a result of the creation of the administrative unit, and taking into consideration the net effect of the transfers in and out of the systems, is as follows: White, 1,598 (17%); Negroes, 8,186 (83%); Indian, 102.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the parties and of the subject matter of this proceeding.

2. Without determining the constitutionality of Chapter 31 of the 1969 Session Laws of North Carolina, the Act in its application creates a refuge for white students, and promotes segregated schools in Halifax County.

3. The Act impedes and defeats the Halifax County Board of Education from implementing its plan to completely desegregate all of the public schools in Halifax County by the opening of the school year 1969–70.

4. Unless the defendants are enjoined, the plaintiffs will suffer immediate and irreparable injury by the deprivation of their constitutional rights.

John D. Larkins, Jr.,
JOHN D. LARKINS, JR.,
United States District Judge.

RALEIGH, NORTH CAROLINA, *August 25, 1969.*

APPENDIX D

In the United States District Court for the Eastern District of North Carolina, Wilson Division No. 1128—Civil

[Filed, May 26, 1970, Samuel A. Howard, Clerk, U.S. District Court, E. Dist. No. Car.]

UNITED STATES OF AMERICA, (ORIGINAL) PLAINTIFF

v.

HALIFAX COUNTY BOARD OF EDUCATION, A BODY CORPORATE; FERD L. HARRISON, AS MAYOR OF THE TOWN OF SCOTLAND NECK; J. A. ANDREWS, F. G. SHEARIN, FRANK B. SHIELDS AND J. I. WALSTON, MEMBERS OF THE BOARD OF COMMISSIONERS OF THE TOWN OF SCOTLAND, NECK; AND THE TOWN OF SCOTLAND NECK, A PUBLIC BODY CORPORATE (ORIGINAL) DEFENDANTS

and

THE SCOTLAND NECK CITY BOARD OF EDUCATION, A BODY CORPORATE (ADDITIONAL) DEFENDANT

and

MARYETTA RICHARDSON AND HER INFANT CHILDREN MONTENIA, TIMMIE, CHARLOTTE AND JIMMY RICHARDSON (HALIWA INDIANS), ON BEHALF OF SEVERAL OTHER HUNDRED CITIZENS AND RESIDENTS OF HALIFAX COUNTY AND WARREN COUNTY, NORTH CAROLINA (ADDITIONAL) DEFENDANTS

and

ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA IN BEHALF OF THE STATE OF NORTH CAROLINA (ADDITIONAL) DEFENDANT

and

PATTIE BLACK COTTON, EDWARD M. FRANCIS, AND OTHERS (ADDITIONAL) PLAINTIFFS

and

MR. HENRY OVERMAN, SUPERINTENDENT OF HALIFAX COUNTY SCHOOLS; THE BOARD OF COMMISSIONERS OF HALIFAX COUNTY; SCOTLAND NECK CITY BOARD OF EDUCATION, FRANKLIN B. BAILEY, SUPERINTENDENT OF SCOTLAND NECK CITY SCHOOLS; LITTLETON-LAKE GASTON SCHOOL DISTRICT AND RUSSELL N. MANNING, SUPERINTENDENT OF LITTLETON-LAKE GASTON SCHOOL DISTRICT; AND THE NORTH CAROLINA STATE BOARD OF EDUCATION; AND DR. CRAIG PHILLIPS, NORTH CAROLINA STATE SUPERINTENDENT OF PUBLIC INSTRUCTION (ADDITIONAL) DEFENDANTS

OPINION AND ORDER

LARKINS, *District Judge:* The subject of this opinion and one of the primary issues in this case is the constitutionality of Chapter 31 of the North Carolina Session Laws of 1969,[1] a local act which

[1] Plaintiff, in its complaint, also challenged the constitutionality of defendant Halifax County Board of Education's pupil assignment plan on the grounds that the plan failed to establish a unitary non-racial school system as required by the mandate of the United States Supreme Court. Furthermore, the status of the Haliwa Indians in the new arrangement of school systems was raised by a complaint in intervention permitted to be filed by this Court on October 30, 1969, on behalf of the several hundred Haliwa Indians residing in Halifax and Warren Counties. Another third-party complaint in intervention,

carved out of the Halifax County, North Carolina, school system a separate administrative unit for the operation of the public schools in Scotland Neck, a town with a population of approximately 3000 located in the southeastern section of Halifax County. The plaintiff contends that the act is unconstitutional and that its implementation should be permanently enjoined because the act is inconsistent with the State's duty under the Equal Protection Clause of the Fourteenth Amendment to dismantle its dual school system. Defendants Scotland Neck City Board of Education and the State of North Carolina contend that the act is not violative of the Fourteenth Amendment to the United States Constitution as interpreted by the Supreme Court of the United States.

This controversy came before the court upon the filing of plaintiff's complaint on June 16, 1969, attacking the constitutionality of Chapter 31 of the Session Laws of 1969 and seeking to require the Halifax County Board of Education to desegregate its school system. Following a three-day hearing on plaintiff's motion for a preliminary injunction in Raleigh, North Carolina, this court, on August 25, 1969, entered a Memorandum Opinion and Order enjoining the Scotland Neck City Board of Education additional defendants and its officers and agents, etc., from taking any further action pursuant to the provisions of Chapter 31 pending a final determination on

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filed as of January 9, 1970, by order of this Court by two black public school teachers in Halifax County and a number of minor school children residing in the Scotland Neck City School System and the Littleton-Lake Gaston School System, made certain allegations about the treatment of black students and faculty members by the Halifax County Board of Education. None of the questions raised by these additional allegations have yet been ruled on by the Court.

the merits of the constitutional questions raised by plaintiff's challenge of the Act.

On October 30, 1969, this Court allowed certain named Haliwa Indians to intervene and on November 3, 1969, this court entered an Order allowing Robert B. Morgan, Attorney General of North Carolina, to intervene as a defendant on behalf of the State of North Carolina.

On January 9, 1970 the court allowed the motion for leave to intervene on behalf of Pattie Black Cotton, Edward M. Francis and others, and ordered additional defendants named therein to plead within 20 days.

This court scheduled a hearing on the merits of the constitutionality of Chapter 31 and similar questions in the case of *Turner et al.* v. *Warren County Board of Education et al.*, No. 1482, Raleigh Division, for Wednesday, December 17, 1969. A trial on the merits in this case and the *Turner et al.* v. *Warren County Board of Education et al.* case was conducted by this court on December 17 and 18, 1969. Following the trial, this court carefully considered the transcripts, exhibits, briefs, depositions and arguments of counsel; and, now being fully advised in the premises, the court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

Scotland Neck, a small town with a present population of approximately 3,000, is located in the southeastern corner of Halifax County, a rural and agricultural region of North Carolina which has a predominantly black population. The population of the town itself is approximately 50% white and 50% black.

The schools within the corporate limits of Scotland Neck were operated as a city administrative unit

until 1936 at which time they became part of the Halifax County unit pursuant to a procedure authorized by the General Statutes of North Carolina.[2] The construction of the elementary school in 1903 and the high school in 1923 was financed entirely by local funds.

Following the consolidation with Halifax County in 1936, the schools of Scotland Neck were operated as part of a dual school system, completely segregated, until 1965, at which time the Halifax County Board of Education adopted a freedom-of-choice plan for the assignment of pupils. The county maintained the freedom-of-choice assignment plan for the next three years during which a few black students attended formerly all-white schools and no white students attended formerly all-black schools. For example, during the 1967–68 school year, all of the white students and 97% of the black students attended schools previously maintained for their own races. In that year, 10 of the 450 teachers in 18 schools were assigned across racial lines. About 35 black students attended the Scotland Neck schools during the 1967–68 school year.

On July 27, 1968, the United States Department of Justice, pursuant to its authority under Title IV of the Civil Rights Act of 1964, sent the Halifax County Board of Education a "notice letter" which advised that Halifax County had failed to disestablish its dual school system and that additional steps should be taken for the Board to be in compliance with the United States Supreme Court's decision in *Green* v. *School Board of New Kent County*, 391 U.S. 430, 88 S. Ct. 1689, 20 L. Ed. 2d 716 (1968). Negotiations ensued between the attorneys for the Justice Department and

[2] Formerly Article 18, Chapter 136, Public Laws 1923, now North Carolina General Statutes §§ 115–74 through 115–78.

the Halifax County School Board, and a tentative agreement was reached whereby the Board would disestablish the dual school system by the commencement of the 1969–70 school year and would implement certain intermediate steps at the beginning of the 1968–69 school year. The Justice Department agreed to withhold suit in consideration of the promises made by the Board.

The negotiations and the Board's promise to desegregate its schools were well-publicized in the local press. The newspaper in Scotland Neck reported on August 9, 1968, that the county had been ordered to end its dual school system and that there were several forms of grade organization, such as zoning or pairing of schools, which would be more effective than the freedom-of-choice plan as a means of converting to a unitary non-racial school system. The portion of the agreement which affected the Scotland Neck schools, that is, the proposed combining of the seventh and eighth grades of the previously all-black Brawley school, just outside the corporate limits of Scotland Neck, with the all-white junior high, was also publicized in the Scotland Neck newspaper on August 16, 1968.

On or about July 1, 1968, in anticipation of their obligation to comply with the *Green* decision, the Halifax County Board of Education asked the North Carolina Department of Public Instruction to conduct a school survey to determine the steps necessary for the Board to meet its desegregation obligations and to recommend "the most effective organizational patterns for the county schools in order to insure the best education possible for the children." The survey, prepared in response to the request, was completed in December 1968. It recommended as an Interim Plan a combination of geographic zoning with grade reorga-

nizations at some schools, including the pairing of the predominantly white Scotland Neck school and the all-black Brawley school with respect to certain grades. The Long Range plan suggested the construction of two new consolidated high schools to be financed by a proposed four million dollar bond issue. The survey also recommended that the county schools be consolidated with the schools in the city units of Roanoke Rapids and Weldon (two city administrative units also located within Halifax County). The Halifax County Board of Education subsequently declined to implement the plan which would have resulted in a majority of black students in 17 of the 18 schools in the Halifax County system.[3]

The legislative bill proposing the creation of a separate administrative unit for the schools of Scotland Neck, according to its proponents, was designed in response to Scotland Neck residents' dissatisfaction with the way in which the Halifax County Board of Education had allowed the schools in Scotland Neck to deteriorate. Only one county-wide school bond issue had passed since 1936, and that was in 1957. At that time, the separate units in Roanoke Rapids and Weldon, on a per-pupil basis, received a total of $1,020,000, and Halifax County received $1,980,000 for capital outlay. None of the proceeds of the bond issue was spent on any schools within the corporate limits of Scotland Neck. If the Scotland Neck schools had been operated as a separate unit at that time, the unit

[3] Mr. Franklin P. Shields, a resident of Scotland Neck and chairman of the Scotland Neck City Board of Education, testified on deposition that he felt public opinion was against the Interim Plan because the people did not generally understand it, because they were generally opposed to change of any kind and because there were administrative difficulties in implementing the plan. (Shields' Deposition, pp. 18–23.)

would have received approximately $190,000 as its proportionate share of the bond proceeds.

In 1963, as a result of the latest state-wide bond issue, the Halifax County Board of Education received a total of $950,000 as its proportionate share of the proceeds. Mr. W. Henry Overman, Superintendent of the Halifax County schools, testified on deposition that none of this money had been spent or committed for any school within the corporate limits of Scotland Neck. (Overman's Deposition, pp. 184, 187.) He also testified that Halifax County has gradually reduced the annual capital outlay tax for the schools from 63 cents per $100 valuation in 1957 to 27.5 cents per $100 valuation in the latest fiscal year. (Overman's Deposition, pp. 204–205.)

In 1963, some of the leaders of Scotland Neck began to formulate plans for the creation of a separate administrative unit for the schools of Scotland Neck but were not able to crystallize these plans into a legislative bill prior to the expiration of the 1963 session of the North Carolina legislature. In 1965, the proponents of a separate administrative unit did formulate a bill which would have provided for a separate unit for the administration of the schools in Scotland Neck and the four surrounding townships and would have provided for a supplemental tax of 25 cents on each $100 valuation throughout the new school district. The bill passed the House of Representatives but was defeated by the Senate, and it was the opinion of many in the Scotland Neck area that the defeat had been caused by the pressure of individuals residing in the townships outside the corporate limits of Scotland Neck.

In 1966, prompted by Mr. Henry Harrison, the only resident of Scotland Neck who was a member of the Halifax County Board of Education, a delegation con-

sisting of Mr. Harrison, Mr. C. M. Moore, chairman of the Halifax County Board of Education, and Mr. Overman, Superintendent of the Halifax County schools, met with Dr. Pearce and some other staff members in the office of the North Carolina Superintendent of Public Instruction, the Division of School Planning, to get approval for the construction of a new high school and gymnasium in Scotland Neck to replace the old high school and the building being used as a combination auditorium and gymnasium. The new facilities would have been completely integrated. The Halifax County Board of Education supported the requested construction for Scotland Neck, but it was not approved by the Division of School Planning. (Overman's Deposition, pp. 178–180).

In 1968, the leaders of Scotland Neck again began to make plans for the creation of a separate administrative unit for the operation of the Scotland Neck schools. This time they planned to limit the boundaries of the new district to the town limits of Scotland Neck because of the feeling that it was the residents of the area outside Scotland Neck who had contributed to the defeat of the bill in 1965. In November 1968, a group consisting of Frank Shields, the future chairman of the Scotland Neck City Board of Education, C. Kitchen Josey, Henry Harrison, and Thorne Gregory, the State representative from the area, visited the Tryon City unit, at that time the smallest school unit in the State with 823 students enrolled during the 1968–69 school year. At that time, 974 pupils were attending the schools within the corporate limits of Scotland Neck, and it was expected that, with transfers, any new administrative unit would have approximately the same number of pupils. It was felt that the Tryon City school was superior to any school in Halifax County, ranking 4th out of 160 units

in the State in percentage of high school graduates attending college, 31st in pupil-teacher ratio and 12th in library books per pupil. The tax base of Tryon was approximately the same as the tax base of Scotland Neck, and the Tryon unit also had a supplementary tax of 50 cents per $100 valuation. The group received a copy of the Tryon budget and the curriculum and discussed with the Tryon officials the amount of money needed to operate the system. The trip was primarily to study the financial feasibility of creating the separate unit in Scotland Neck (Shields' Deposition, pp. 11–12, 59–60). The Scotland Neck leaders talked to no other professional educators (with the exception of State Superintendent Craig Phillips, who opposed the creation of a new unit) and conducted no other studies before proposing the introduction of a bill in the State legislature. (Henry Harrison's Deposition, pp. 57–9).

The actual bill creating the separate unit in Scotland Neck was drafted by the North Carolina Attorney General's office and was introduced as House Bill No. 22. After receiving the approval of the House Education Committee, the House Finance Committee and the Senate Finance Committee, the bill passed both houses by a substantial majority and was ratified as Chapter 31 of the North Carolina Session Laws on March 3, 1969.[4]

Chapter 31 was a local act which authorized the creation of a separate public school administrative

[4] The actual title of Chapter 31 was: "An act to improve and provide public schools of a higher standard for the residents of Scotland Neck in Halifax County. To establish the Scotland Neck City admininstrative unit, to provide for the administration of the public schools in said administrative unit, to levy a special tax for the public schools of said administrative unit, all of which shall be subject to the approval of the voters in a referendum or special election."

unit to be known as the Scotland Neck City Administrative Unit pending approval by a majority of the voters of Scotland Neck in a special election to be held on April 8, 1969. The act also provided that, upon such approval, a special tax of 50 cents per $100 valuation be levied on property within the corporate limits of Scotland Neck, the school properties within the new system and all funds allocated for the operation of such schools be transferred from the Halifax County Board of Education to the new system and that the Mayor and Board of Commissioners of Scotland Neck be required to appoint a Board of Education to administer the new system.

Chapter 31 became operative on April 8, 1969, upon the approval of a majority of the voters of Scotland Neck. Of the 1305 registered voters, in a large turnout, 813 voted for approval, and 332 voted against the act. (Ferd Harrison's Deposition, pp. 16-21).

There was a mixed reaction to the bill by educators and the people of Halifax County. Most of the white leaders of Scotland Neck supported the bill. Mr. W. Henry Overman, Superintendent of the Halifax County Schools, was opposed to the bill. (Henry Harrison's Deposition, p. 12). Negro groups, specifically, one led by a Reverend Deloatche, generally opposed the bill. (Deposition of Aubrey Powell, black member of the Scotland Neck school board, p. 18). Craig Phillips, State Superintendent of Public Instruction and the only professional educator to testify against the bill in the legislature, opposed it on the grounds that it was contrary to the trend of consolidating school districts (Phillips' Deposition, p. 23), and because the number of students in the unit would be less than the number which he thought should be a minimum for the efficient operation of a school unit. (Phillips' Deposition, pp. 58, 59, 87-88).

Following approval of the act by the voters of Scotland Neck, the Mayor and Board of Commissioners of the Town appointed a five-member Board of Education. The Board then hired Franklin B. Bailey as superintendent, approximated the student enrollment for the 1969–70 school year and hired teachers. The Board also had a preregistration for students, established a curriculum, set up an athletic program and assigned teachers. At a two-day instruction session for teachers which began on August 18, 1969, the Board announced that new teachers should report on August 26th and that the students should report for the commencement of the school year on August 28th. The supplementary tax of 50 cents per $100 valuation was levied by the Board of Commissioners and the Town Tax Collector was instructed to collect it. (Ferd Harrison's Deposition, p. 22).[5]

At a joint meeting of the Halifax County and Scotland Neck school boards in June, the Halifax Board agreed to lease the Junior High School building which was just outside the boundaries of the new district to the Scotland Neck Board for one dollar per year. The Halifax Board has a similar arrangement with the Roanoke Rapids school unit with respect to the Chaloner school. The lease from Halifax County to Scotland Neck was first discussed at a joint meeting of the two boards in April or May. (C. M. Moore's Deposition, pp. 25–26). The lease arrangement amounted to extending the boundaries of the Scotland

[5] The collection of the tax of course ceased when this Court's preliminary injunction was entered against further implementation of Chapter 31. Much to the credit of the citizens of Scotland Neck, the supporters of the bill have financed this litigation by voluntary donations contributed in response to a solicitation in the *Scotland Neck Commonwealth*, the local newspaper, on October 10, 1969.

Neck unit to include approximately 10 additional acres, and the extension was approved by the State Board of Education on June 5, 1969. (Deposition of Franklin B. Bailey, Superintendent of the Scotland Neck System, pp. 19–20, Overman's Deposition, pp. 63–64).

One controversial aspect of this case is a transfer plan devised by the Scotland Neck Board of Education whereby students would be allowed to transfer into or out of the Scotland Neck unit to and from the Halifax County unit.[6] Under the plan a student could transfer into the system if he paid a fee which would compensate for the supplemental tax being paid by the parents of those students residing within the corporate limits of Scotland Neck. One hundred dollars would be charged for the first child in a family; $25 for the next two children; and the rest of the children in a family would be allowed to transfer in free of charge. As of August 25, 1969, 350 whites and 10 blacks had applied for transfer into the Scotland Neck system, and 44 black 11th and 12th graders had applied to transfer out of the Scotland Neck unit to attend the all-black Brawley High School.[7] Because of the controversial nature of the transfer plan and the charge that the plan permitted the Scotland Neck system to become a refuge for white students or

[6] Both the Roanoke Rapids and the Weldon city units have similar transfer plans, but, recently, restrictions have been placed on the number of students permitted to transfer from Halifax County into the two systems. (Overman's Deposition, pp. 166–169).

[7] Counsel for the Scotland Neck City Board of Education explained that the transfer of these black students in the 11th and 12th grades would be permitted only for the next two years in order to allow the students who had bought class rings, participated in athletics or had been chosen to leadership positions to remain in the all-black Brawley High School.

"white island," counsel for the Scotland Neck Board of Education in its First Further Answer attached to an Amended Answer filed on September 3, 1969, said the Scotland Neck unit, if permitted to operate, would limit its student enrollment to those students residing within the corporate limits of Scotland Neck plus or minus any transfers that may be permitted by law and that would be in accordance with a plan to be approved by this Court.[5]

The result of the creation of a separate administrative unit for Scotland Neck was to carve out of the Halifax County unit a smaller school district. Without the transfer system, there are 399 whites and 296 blacks of school age within the corporate limits of Scotland Neck. This does not include the children who would have entered the first grade in the fall of 1969. The Scotland Neck system would have been an integrated system throughout with black students comprising 42.6% of the student enrollment. There is one black member on the five-member school board, and the faculty would also be integrated. The effectuation of the proposed transfer plan would have created approximately the same ratio of white to black students that prevailed during the 1968–69 school year. In 1968–69, 786 whites attended Scotland Neck schools. Of those, 399 resided within the corporate limits and 387 resided outside Scotland Neck. With the transfer system as originally adopted, the net

[5] If the school district itself were found to be constitutional, it would not be difficult to fashion an acceptable transfer plan by either limiting transfers in and out such that the black-white ratio would be the same after accepting transfers or by accepting an equal number of blacks and whites. The problem of finding enough black students who could afford the transfer fees might be met by charging the paying transferees a higher fee.

effect would have been to have 759 white students (74%) in the schools of Scotland Neck and 262 black students (26%). The school facilities under the jurisdiction of the new unit will accommodate about 1,000 students.

The effect of the new unit on the other students in the county would be to leave the Halifax County unit with fewer whites in its school system. During the 1968–69 school year, the Halifax unit had a total of 10,655 students, of which 2,357 (22%) were white, 8,196 (77%) were black and 102 (1%) were Indian. The racial composition of the Halifax unit, with the originally proposed transfer system, would be as follows: white, 1,598 (16%); black, 8,186 (83%); Indian, 102 (1%). If the transfer system were not allowed or if a transfer system were devised which assured a larger number of black students in the Scotland Neck unit, the figures and percentages of course would change accordingly. Mr. Overman, Superintendent of the Halifax schools, testified on deposition that the Interim Plan proposed in the 1968 survey prepared for the Halifax County system could still be implemented even if the constitutionality of the Scotland Neck district were upheld. (Overman's Deposition, pp. 144–151). He also testified that Halifax County would still get the same amount of money per pupil from State, Federal and local sources and that the County would have an even better pupil-teacher ratio in certain areas of instruction.

One of the principal questions in passing on the constitutionality of Chapter 31 relates to the motivation of the proponents and supporters of the Scotland Neck legislation. The plaintiffs contend that the motivation behind the passage of the act was simply a desire to decrease the proportion of black students in the Scotland Neck schools. The defendants submit

that the primary reason for the legislation was a desire on the part of the people and leaders of Scotland Neck to increase the quality of education in the Scotland Neck schools. After closely scrutinizing the record and after carefully considering the arguments of counsel, this Court is of the opinion that the following motivating forces were responsible for the design of the legislation creating the separate Scotland Neck school district: (1) the desire to improve the educational level in the Scotland Neck schools, the present conditions in those schools having been brought about by a lengthy history of neglect and discrimination with respect to financial allocations to the Scotland Neck schools by the Halifax County Board of Education; (2) a desire on the part of the leaders of Scotland Neck to preserve a ratio of black to white students in the schools of Scotland Neck that would be acceptable to white parents and thereby prevent the flight of white students to the increasingly popular all-white private schools in the area; (3) a desire on the part of the people of Scotland Neck to control their own schools and be in a position to determine their direction with more finality than if the schools were a part of the Halifax County system. In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck, but it is sufficient to say that the record amply supports the proposition that each of the three played a significant role in the final passage and implementation of Chapter 31.

There is lengthy testimony supported by the historical treatment of the Scotland Neck schools by the Halifax County Board of Education to the effect

that the primary reason for the new district was that the people of Scotland Neck felt they could have a better education system if they could have a separate school district, levy a supplemental tax upon themselves and exert more local control over the operation of the schools within the corporate limits of the town. Mr. Aubrey Powell, the black member of the new Scotland Neck school board, testified on deposition that he thought the bill originated because the people of Scotland Neck thought it would provide a better education for their children. (Powell's Deposition, pp. 5–6). Mr. Powell said that the question of the private schools was never discussed among the school board of Scotland Neck and that the issue had never been mentioned to him. Dr. Craig Phillips said in his deposition that after discussing the bill with Josey, Harrison and Shields he was convinced that the major point of discussion and the reason for the proposed bill was "simply, concern about the quality of education for the youngsters involved in Scotland Neck." (Phillips' Deposition, p. 15). Mr. Henry Harrison, a strong proponent of the improvement of the Scotland Neck schools, testified that the people of Scotland Neck merely tried to improve the education of all the children, both black and white, and that it was his understanding that under the administration in the new school district, the dual school system would be abolshed. (Henry Harrison's Deposition, pp. 40–41). Mr. Overman, Superintendent in Halifax County, in discussing the reasons behind the bill proposed in 1965, said that its purpose was to give the people of Scotland Neck more control over their schools and enable them to have a supplementary local tax. (Overman's Deposition, pp. 172–176). He also cited the decrease in the annual capital expenditure outlay tax from

63 cents to 27.5 cents per $100 valuation. (Overman's Deposition, pp. 204–205).

The testimony and the candid admissions of counsel also indicate that the desire to preserve an acceptable white ratio in the school system was a factor behind the passage of the act. Mr. Harrison stated that he told the legislature that white children were going to private schools and that something needed to be done to retain the support of the white people for the public schools. (Henry Harrison's Deposition, p. 18). Mr. Shields and Mr. Overman both testified that they felt that integration would encourage the growth of the all-white private schools. (Overman's Deposition, pp. 217–218, Shields' Deposition, pp. 70–71). Mr. C. M. Moore said that it was his opinion that the independent school system would be a better alternative than the private schools. (Moore's Deposition, pp. 18–19). Mr. Shields testified to the same thing and said that most of the adults in Scotland Neck held the same opinion. (Shields' Deposition, pp. 23–26).

One factor which the plaintiff has attempted to use as proof that the bill will produce an inferior school system and that, therefore, it could not have been put forth for educational reasons is that there is substantial opinion among educators that there are considerable educational advantages to be derived from the greater efficiency and better allocation of resources frequently associated with the operation of school units with larger numbers of pupils. However, the Court feels impelled to consider the points raised by the arguments of counsel for both sides because of the great amount of effort put forth by both sides to show why the proposed school district in Scotland Neck might or might not be better than the Halifax County system out of which it was carved.

Many educators agree in general principle with the suggestion made in the report of the Governor's Study Commission [9] that the merger of administrative units is a desirable thing because it frequently leads to the increased efficiency in the operation of the public schools. Mr. Overman testified that the North Carolina Teacher's Association approves the suggested number of 9,000–10,000 as a desirable pupil population and the suggested minimum of 3,500–4,000 in the size of school units as recommended on page 164 of the study commission's report. (Overman's Deposition, p. 72). Dr. Craig Phillip is also firmly committed to the policy of consolidation and the advisability of reaching a 5,000 student population unit if possible and testified that the number of units in North Carolina has declined from a peak of 177 to the present number of 155. (Phillips' Deposition, pp. 35–36).

Further argument against the educational advantages of the new district is that the Scotland Neck school board did not actually make any plans to use the additional tax money for teachers' supplements. The only proposed change in salaries was to give the superintendent an $1,800.00 per year supplement. There were plans to set up a curriculum study program in the fall of 1969 to determine which courses would be of most benefit to the students in the Scotland Neck system, but the only planned changes in the school curriculum for the 1969-70 school year was

[9] The Report of the Governor's Study Commission on the Public School System of North Carolina is a 302-page report prepared by a 17-member commission appointed by Governor Dan K. Moore. The report was submitted December 3, 1968, and was prepared in response to the question "How best can the people of North Carolina meet their obligation to provide full educational opportunities for their children?" In conducting the study, the commission consulted experts, conducted research and visited a number of schools.

the elimination of the music course and some trade courses. (Powell's Deposition, pp. 23–24). There were no studies made prior to the introduction of the bill with respect to the educational advantages of the new district, and there was no actual planning as to how the supplement would be spent although some people assumed it would be spent on teachers' supplements.

The thing which makes it difficult for this Court to base its conclusions on the quality of education in the new unit is that there is so much conflict in the testimony. For example, Craig Phillips, although endorsing the trend toward mergers of school units, testified that he would ascribe very strongly to the statement on page 29 of the school survey of 1968 [10] that "the one best single determinant in the quality program of education is the financial factor. * * * " He testified that many of the smaller units do turn out a better product than the larger units and that he was aware that units in the 823–2,000 pupil category rank higher in many significant categories than some of the larger units. (Phillips' Deposition, pp. 93–95). This Court also, in examining the rankings of the various schools with respect to many categories, notes that the smaller schools do rank higher in some rather significant categories and that the Halifax County unit ranks near the bottom in a number of the categories.[11]

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[10] A survey of the Halifax County Schools prepared in September, 1968, by a seven-member committee under the supervision of the Division of School Planning in the North Carolina Department of Public Instruction and the direction of Dr. J. L. Pierce, Director.

[11] The Profile of Significant Factors in Education in North Carolina, a ranking of school administrative units prepared in July, 1968, by the Statistical Services Division of the North Carolina Department of Public Instruction, shows that the

Another factor worthy of mention is the plaintiff's introduction into evidence of several newspaper articles which discuss a supposed motivation for the bill. The articles taken from the *Raleigh News and Observer,* suggest that racial considerations, and not a concern for better education, motivated the legislation. For example, on February 2, 1969, the newspaper wrote that Halifax County Negroes outnumbered whites, that the reverse existed in Scotland Neck and that Halifax County Negroes had opposed the bill. On February 14, 1969, the paper commented editorially that the bill provided for an "educational island" dominated by whites and on February 22, 1969, suggested that if the bill passed, it would encourage other school districts to provide similar legislation. This Court has chosen to admit the newspaper

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Halifax system, the Tryon City system (smallest unit in the state), and the Tyrrell County system (small rural agricultural county) rank, in relation to the 166 units in the state and in the following categories, as follows:

	Tryon	Tyrrell	Halifax
1. Percent of classroom teachers with graduate certificates, table 1, p. 1	59	98	120
2. Percent of professional staff paid entirely from local funds, table 4, p. 13	54	87	135
3. Percent of classroom teachers with maximum experience for pay purposes, table 5, p. 17	14	5	84
4. Percent of classroom teachers with no prior experience, table 6, p. 21	160	38	12
5. Percent of high school graduates entering college, table 7, p. 25	4	134	162
6. Percent of high school graduates entering trade, business, or other schools, table 8, p. 29	86	63	123
7. Pupil to staff ratio, table 14, p. 49	31	69	138
8. Per pupil expenditures of local funds, table 24, p. 89	48	109	125

articles for the purpose of showing that they did appear and not for the purpose of showing the truth of the information contained in them.[12]

CONCLUSIONS OF LAW

Three legal principles are applicable to an analysis of the constitutional issues now before this court. The first is that any federal court should be hesitant to declare a state statute unconstitutional. As stated in *Phillips Petroleum Co.* v. *Jones*, 147 F. Supp. 122, 125 (D. Okla., 1955) (three-judge court):

> Federal jurisdiction, though existent, will not be exercised to strike down a state statute unless it is clearly and palpably unconstitutional upon its face, the enforcement of which will cause immediate and irreparable harm to the complainant, as to which there is no legal or administrative remedy. * * * [cites omitted.]

There is similar language in numerous other cases, but, for reasons which need not be considered at this time, the principle has not been applied extensively in cases involving race, civil rights or school desegregation; and the principle is therefore of limited relevancy in resolving the questions now under consideration.

The second applicable principle relates to what the Supreme Court and the lower courts have said about what school boards and state and local school officials must do to guarantee black students their constitutional rights in the area of school desegregation. The relevant cases here would appear to be *Brown* v.

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[12] Although there is authority for admitting the newspaper articles to show legislative intent where there are no other reports made contemporaneously with the passage of the act, e.g., *United States* v. *Louisiana*, 225 F. Supp. 353, 375n. 59 (E.D. La., 1963) (three-judge court), this Court has chosen to limit the admissability of the articles as stated.

Board of Education (Brown I), 347 U.S. 483, 98 L. Ed. 873, 74 S. Ct. 686 (1954), *Brown* v. *Board of Education* (Brown II), 349 U.S. 294, 99 L. Ed. 1083 75 S. Ct. 753 (1955), *Green* v. *New Kent County School Board,* 391 U.S. 430, 20 L. Ed. 2d 716, 88 S. Ct. 1689 (1968), *Alexander* v. *Holmes County Board of Education,* 396 U.S. 19, 24 L. Ed. 2d 19, 90 S. Ct. 29 (October 29, 1969).

As this Court reads and interprets these relevant opinions, it would seem that the Supreme Court is concerned about establishing school systems which operate and assign their students to a particular school without regard to the student's race or color. Justice Brennan, speaking for the Court in the *Green* decision said the following:

> It was * * * dual systems that 14 years ago Brown I held unconstitutional and a year later Brown II held must be abolished; * * * 391 U.S. at 435, 20 L. Ed. 2d at 722.

and

> The transition to a unitary, non-racial system of public education was and is the ultimate end to be brought about; * * * 391 U.S. at 436, 20 L. Ed. 2d at 722.

Brown II used the phrase "racially nondiscriminatory school system" and *Green* used the phrase "unitary nonracial school system" as the description of that which the Constitution requires.

The requirement that school systems must be nonracial was injected with an air of immediacy by the *Green* decision in May, 1968. An even stronger demand for desegregation *now* was made in October, 1969, when the Court, in a per curium opinion, *Alexander* v. *Holmes County Board of Education,* stated that the "all deliberate speed" standard was no longer applicable and that "* * * the obligation of every school district is to terminate dual school systems at once

and to operate now and hereafter only unitary schools." 24 L. Ed. 2d at 21.

As of the entry of this Opinion and Order the Supreme Court has failed to give an exact definition of a unitary nonracial school system. Although the Supreme Court has condemned gerrymandering, freedom-of-choice plans, free-transfer plans, and racially identifiable schools, student bodies or faculties which to retain the vestiges of the segregated dual system, no case has been brought to the attention of this Court (with the possible exception of a recent Georgia case) which requires any specific ratios of blacks to whites in a classroom, school or school district. Despite newspaper articles and perhaps some district court opinions to the contrary, the Supreme Court has not yet required bussing or population changes to effect particular black-white ratios in the schools. The emphasis of the Court has been on the nature of the school system and how it treats and assigns its students and faculty members. The Supreme Court has not yet concerned itself with the actual numbers of blacks and whites attending school together except where the numbers or percentages reflect that the school system is assigning its students or faculty or making some decisions on the basis of the race of the individuals involved.

The third legal principle relevant to the analysis of this case is that stated in *Gomillion* v. *Lightfoot*, 364 U.S. 339, 5 L. Ed. 2d 110, 81 S. Ct. 125 (1960) that "acts generally lawful may become unlawful when done to accomplish an unlawful end." In that case, the Supreme Court invalidated an Alabama statute which had redefined the boundaries of the City of Tuskegee to reduce the black vote. Legislative manipulation to affect the constitutional rights of blacks has been a familiar practice in several southern

states in recent years, two examples being found in *Hall* v. *St. Helena Parish School Board,* 197 F. Supp. 649 (E.D. La., 1961), and *Poindexter* v. *Louisiana Financial Assistance Commission,* 275 F. Supp. 833 (E.D. La., 1967), aff'd, 389 U.S. 571, 19 L. Ed. 2d 780, 88 S. Ct. 693 (1968), two cases by three-judge courts which struck down attempts by the Louisiana legislature to continue a segregated public school system under the guise of assistance payments to private school students.

Applying this principle to the assignment of pupils, the case of *Haney* v. *County School Board of Education Sevier County,* 410 F. 2d 920 (8th Cir. 1969), becomes relevant. In that case, plaintiffs challenged the existence of an all-black school in one district of the county and an all-white school in a different district of the same county. The district court dismissed the complaint on the grounds that the districts had not been created for the purposes of denying plaintiffs their constitutional rights and were therefore valid. The court of appeals reversed the district court on the grounds that the creation of the districts, in accordance with a statutory reorganization of Arkansas schools in 1948 in accordance with the then-existing Arkansas law, was unconstitutional because the 1948 law required Arkansas schools to be segregated and the boundaries of the school districts were obviously drawn to continue the segregated schools. In this Court's opinion, the holding in the *Haney* case was simply that the maintenance of segregated schools cannot be justified "simply because of the pre-*Brown* geographic structuring of school districts."

Also demonstrative of the Gomillion principle is the Supreme Court decision in *Monroe* v. *Board of Commissioners of the City of Jackson, Tennessee,* 391 U.S. 450, 20 L. Ed. 2d 733, 88 S. Ct. 1700 (1968),

in which the Supreme Court struck down a free-transfer plan which enabled a child, after first registering at the assigned school in his attendance zone, to transfer to the school of his choice if space were available. The Court objected to the plan on the grounds that it delayed the conversion to a unitary nonracial system where, after three years of operation under the plan, all of the whites remained in the white school and 80% of the blacks remained in the black school.

Perhaps the two most relevant, but still distinguishable cases are two district court decisions rendered within the last few months in Virginia and Arkansas. In *Burleson* v. *County Board of Election Commissioners of Jefferson County,* No. PB–69–C–65 (E.D. Ark., September 22, 1969), an opinion by District Judge J. Smith Henley, the plaintiffs, residents of the Dollarway School District, challenged the implementation of the results of a local election which would have permited the Hardin area of the district, a noncontiguous area with a 99%-white student population, to be severed from the district. The court enjoined the implementation of the election on the grounds that severance would impede the Dollarway School Board's efforts to comply with that court's order to integrate the schools and because the Board would have had difficulty in finding white teachers who would teach in the district if blacks greatly outnumbered whites. Also, the district would have lost some operating funds and there were no schools or other facilities in the Hardin area available for the school children in that area.

The second case is *Wright* v. *County School Board of Greensville County,* No. 4263 (E.D. Va., August 8, 1969), a decision by District Judge Robert R. Merhige. In that case, the Greensville County School Board was

in the process of carrying out a court-ordered plan of desegregation, and the City Council and other officers of the City of Emporia, on July 9, 1969, convened a special meeting to establish a separate city school system. On July 10th, the mayor sought to buy or lease from the county the school buildings located within the city. At a July 14th meeting, after hearing the mayor express his dissatisfaction with the proposed plan of desegregation for the county, the City Council unanimously decided to instruct the City School Board to take steps to establish a separate school division for the city. On July 23rd, the City Council adopted a resolution requesting the State Board of Education to authorize the creation of a separate school division. The City School Board notified the county board that no city children would attend the county system thereafter and that the city would no longer share the costs of the county system. The plan of operation proposed by the City of Emporia would have afforded those students residing outside of the city the opportunity to attend the city schools on a "tuition-no transportation" basis. The members of the City School Board offered no assistance to the county board in the submission of a plan of desegregation to the district court.

The district court found as a matter of law that the City School Board, as successor to the Greensville County Board, was required to disestablish racial segregation in the school system in accordance with the plan approved by the court. The establishment and operation of a separate school system would have been an impermissible interference and frustration of the court's order.

Application of the constitutional case law to the issue before this Court, the separation of the Scotland Neck school unit from the larger Halifax County unit,

creates a more difficult question than this Court has been able to find in any of the questions presented in the earlier cases. With the transfer system as it was originally proposed, this Court would probably have less difficulty in finding the scheme unconstitutional, because the Scotland Neck school district in view of the economics of the situation, that is, the inability of blacks to afford the transfer fees, would become a refuge or haven for those white students in the county who wished to escape the real or imagined disaster of a substantial black majority in the Halifax County System. Now that the defendant Scotland Neck City Board of Education, in its First Further Answer of September 3, 1969, has agreed to either eliminate the transfer system or adopt a system which would comply with the Board's constitutional obligations, the question has become even more difficult. What this Court is now faced with is assessing the results of the creation of the new unit strictly in terms of the effect it has on the relationship of those students residing within the corporate limits of Scotland Neck and those residing in Halifax County. The creation of the new unit does take some of the white students out of the Halifax County unit and thereby does reduce the proportion of whites in a school system already top-heavy with black students.

It is apparent that Chapter 31, of the Session Laws of 1969 was enacted with the effect of creating a refuge for white students of the Halifax County School system, and interferes with the desegregation of the Halifax County School system, in accord with the plan adopted by said Board to be implemented on or before June 1, 1970.

THEREFORE, this Court's findings of fact that the legislative bill creating the district was at least partially motivated by a desire to stem the flight of white

students from the public schools, the Court must find that the act is unconstitutional and in violation of the Equal Protection Clause of the 14th amendment and must enter permanent injunctive relief for the plaintiff.

Since the record in this case conclusively shows that the Act of the General Assembly creating the Scotland Neck unit in Halifax County serves no State interest and prevents the Halifax County Board of Education from complying with the orders of this court issued in protection of constitutional rights, it is the court's opinion that Chapter 31 of the North Carolina Session Laws of 1969 is unconstitutional. A judgment in accordance with this opinion will be entered by the court.

ORDER

NOW, THEREFORE, in accordance with the foregoing, it is:

ORDERED that the further implementation of Chapter 31 of the 1969 Session Laws of North Carolina be, and the same hereby is, permanently enjoined; and,

ORDERED that the Clerk shall serve copies of this OPINION and ORDER upon all counsel of record.

Let this ORDER be entered forthwith.

Algernon L. Butler,
ALGERNON L. BUTLER,
Chief Judge,
United States District Court.

John D. Larkins, Jr.,
JOHN D. LARKINS, JR.,
United States District Judge.

May 23, 1970.

A True Copy, Teste: Samuel A. Howard, Clerk, by C. R. Sanger, Deputy Clerk.

APPENDIX E

JUDGMENT

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 14,929

UNITED STATES OF AMERICA, AND PATTIE BLACK COTTON, EDWARD M. FRANCIS, PUBLIC SCHOOL TEACHERS OF HALIFAX COUNTY, ET AL., APPELLEES

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, A BODY CORPORATE, APPELLANT

Appeal from the United States District Court for the Eastern District of North Carolina

This cause came on to be heard on the record from the United States District Court for the Eastern District of North Carolina, and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court appealed from, in this cause, be, and the same is hereby, reversed; and the case is remanded to the United States District Court for the Eastern District of North Carolina, at Wilson, with instructions to dissolve its injunction and retain jurisdiction to consider plans of integration proposed by Halifax County Board of Education and by Scotland Neck Board of Education.

SAMUEL W. PHILLIPS,
Clerk.

A True Copy, Teste:

SAMUEL W. PHILLIPS,
Clerk.

By DIANE HUDSON,
Deputy Clerk.

APPENDIX F

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 14990

ALVIN TURNER, ET AL., AND JOANNE AMELIA CLAYTON, ET AL., APPELLEES

versus

THE LITTLETON-LAKE GASTON SCHOOL DISTRICT, A PUBLIC BODY CORPORATE OF WARREN COUNTY AND HALIFAX COUNTY, NORTH CAROLINA, APPELLANT

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh

Algernon L. Butler and *John D. Larkins, Jr.*, District Judges.

Argued December 7, 1970—Decided March 23, 1971

Before HAYNSWORTH, Chief Judge, SOBELOFF, BOREMAN, BRYAN, WINTER, CRAVEN and BUTZNER, Circuit Judges sitting en banc

William S. McLean (*McLean, Stacy, Henry & McLean; James H. Limer; Robert Morgan,* Attorney General of North Carolina, and *Ralph Moody,* Deputy Attorney General of North Carolina, on brief) for Appellant, and *Adam Stein* (*J. LeVonne Chambers,* and *Chambers, Stein, Ferguson & Lanning; T. T. Clayton* and *Frank Ballance,* and *Clayton* and *Ballance; Conrad O. Pearson; Jack Greenberg, James M. Nabrit, III,* and *Norman Chachkin* on brief) for Appellees.

CRAVEN, *Circuit Judge:* This is one of three cases on appeal in which the court below enjoined the carving out of a new school district containing approximately 50 percent white students and 50 percent black students from a county school district containing a substantial majority of black students. In the other two cases, we reversed the district court. *United States* v. *Scotland Neck Board of Education*, — F. 2d —, Nos. 14929 and 14930 (4th Cir. ——, 1971); *Wright* v. *Council of City of Emporia*, — F. 2d —, No. 14552 (4th Cir. ——, 1971). In this one, we affirm.

This suit to compel the desegregation of the Warren County school system was begun in 1963. Back then Warren County had assigned all of the white students to six all-white schools, all of the black students to thirteen all-black schools and all of the Indian students to one all-Indian school. During the school years beginning in the fall of 1964, 1965 and 1966, Warren County assigned its students to the various schools through a freedom of choice plan. On May 16, 1967, the district court determined that the freedom of choice plan had failed to materially alter the previously existing racially segregated school system and ordered the Warren County School Board to take affirmative action to eliminate the dual school system. The affirmative action taken by the school board was to assign a handful of black and Indian students to predominantly white schools and assign four teachers across racial lines. On July 31, 1968, the district court found that Warren County was still operating a dual school system and ordered the school board to file a plan for the elimination of racial segregation. The first two plans were rejected as inadequate. Finally, on December 1, 1968, the school board submitted a third plan providing for geographic attendance zones

to take effect with the beginning of the 1969–70 school year. This plan was approved by the district court in July 1969.

Opposition to the school board's third plan arose soon after it was submitted. The opposition resulted in proposals for the creation of separate school districts for the town of Warrenton and the area surrounding the town of Littleton. Bills were introduced to the North Carolina legislature to carve new school districts for these two areas out of the existing Warren County school district. The governing bodies of the two new school districts were denominated the Warrenton City Board of Education and the Littleton-Lake Gaston School District. The Warren County Board of Education approved petitions urging the passage of these bills. The two bills were passed by the North Carolina legislature and ratified as Chapters 578 and 628 of the 1969 North Carolina Session Laws. The residents of both affected areas approved the creation of the new school districts by referendum.

On July 17, 1969, the plaintiffs filed a supplemental complaint seeking a declaratory judgment that Chapters 578 and 628 of the 1969 North Carolina Session Laws were unconstitutional and seeking an injunction against the operation of the two newly created school systems. On August 25, 1969, a temporary injunction against the operation of the two new school districts was issued by the United States District Court for the Eastern District of North Carolina. The injunction was made permanent on May 26, 1970. The Littleton-Lake Gaston School District appealed. The Warrenton City Board of Education has not appealed.

The constitutionality of the legislation creating the Littleton-Lake Gaston School District depends on whether its primary purpose is to prevent, insofar as

is possible, the dismantling of the former dual school system. *Wright* v. *Council of City of Emporia*, — F. 2d. —, No. 14552 (4th Cir. ———, 1971). Legislatures are assumed to intend the natural and reasonable effect of the legislation they enact. "In a legal sense the object or purpose of legislation is to be determined by its natural and reasonable effect. . . ." *People ex rel. Parke, Davis & Co.* v. *Roberts*, 171 U.S. 658 (1898).

Looking at effect only, and ignoring the abortive creation of the Warrenton City School district, this case is similar to *Scotland Neck* and *Emporia, supra*. Removing the students who were to attend the Littleton-Lake Gaston School District would alter the racial balance in the remaining Warren County school district by, at most, 5.5 percent, from 28 percent white, 67 percent black and 6 percent Indian, to 21.5 percent white, 72.5 percent black and 6 percent Indian.[1] There would be a substantial majority of black students in the Warren County system whether or not these students were removed. Also, paralleling *Scotland Neck* and *Emporia*, the Littleton-Lake Gaston school officials argued in the district court that the creation of the special school district was designed to remedy long standing financial difficulties and to prevent the imminent elimination of school facilities from the town of Littleton. The town of Littleton lies partly in Warren County and partly in Halifax County.

[1] The appellants and the appellees disagree on the method that should be employed to measure the effect of the removal of the students who were to attend the Littleton-Lake Gaston School District on the racial balance in Warren County. According to the appellants, the effect would have been a change in the racial balance in the remaining Warren County system of no more than 2.6 percent. Our disposition of this case does not require us to resolve this dispute.

Historically, students from both Warren County and Halifax County attended school in Littleton, although the school was officially part of the Warren County school system. The Warren County Board refused to fund the Littleton school at a level commensurate with other schools in the system arguing that Halifax County should provide support for the students from Halifax County. The Halifax County Board refused to provide funds for a school run by Warren County. Apparently as a result of this financial dilemma, the physical condition of the school building in Littleton was deteriorating. A report by the North Carolina Division of School Planning in 1965 recommended the eventual abandonment of school facilities presently in use in Littleton. Although the report did not specify where replacement facilities would be erected, the Littleton officials apparently assume that they would not be located in Littleton.

Despite these similarities, we think there are important differences that distinguish this case from *Scotland Neck* and *Emporia*. In both *Scotland Neck* and *Emporia*, the district courts specifically found that there were non-invidious purposes for the creation of the new school districts. The opinion below in this case, signed by the same two district judges who sat in *Scotland Neck*, contains no such findings. In both *Scotland Neck* and *Emporia*, the geographic boundaries of the new school districts are the previously existing boundaries of the two cities. The Littleton-Lake Gaston School District is composed of the town of Littleton, two townships in Warren County and part of a third township in Halifax County. Why U.S. 158 was selected as the southern boundary for the new school district is not satisfactorily explained. New boundary lines are suspect and require close scrutiny to assure that they are not gerrymandered for invid-

ious purposes. Although the financial difficulties of the Littleton school are of long standing and the report recommending the abandonment of the Littleton school facilities predates the creation of the Littleton-Lake Gaston School District by four years, there were no attempts by the residents of the Littleton area to obtain a separate school district prior to the time that effective integration was imminent as there were in *Scotland Neck*. Unlike *Emporia*, the residents of the Littleton area have not been deprived of their proportionate voice in the governmental affairs of Warrent County.

But we need not decide whether these differences alone are sufficient to compel a result different from the disposition of *Scotland Neck* and *Emporia*. In determining the purpose of legislation, it is appropriate to consider not only the effect of the legislation itself, but also the history and setting out of which the legislation arose. See *Poindexter* v. *Louisiana Financial Assistance Commission*, 275 F. Supp. 833 (E.D. La. 1967), aff'd per curiam, 389 U.S. 571 (1968). The adverse reaction and strong opposition to the third desegregation plan submitted by the Warren County Board of Education plainly fueled the creation of the two new school districts, Littleton-Lake Gaston and the Warrenton City Administrative Unit. The two bills creating these school districts were introduced on April 10 and 11, 1969, a day apart, and were ratified three days apart. Both were "local bills" sponsored by representatives to the North Carolina legislature from districts including Warren County. The court below focused, quite properly, on the combined effect of these two bills. The net effect of both bills would have been to reduce the number of white students in the Warrenton County school system from 1,415 (27 percent) to 260 (7 percent)—allowing more

than four out of five white students to escape the heavily black schools of Warren County.[2] The finding of the district court that the primary purpose of the legislation was to carve out a refuge for white students and preserve to the extent possible segregated schools in Warren County is supported by substantial evidence, and indeed, is inescapable. Accordingly, we affirm the judgment of the district court enjoining the establishment of the Littleton-Lake Gaston School District.

Affirmed.

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[2] These figures include the net effect of transfer plans adopted by both the Littleton-Lake Gaston School District and the Warrenton City Board of Education. In *Scotland Neck* we concluded that the effect of a transfer plan adopted by the Scotland Neck Board of Education had no relevance to the question of the constitutionality of the legislation creating the Scotland Neck school district because there was nothing in the record to suggest that the legislature was aware that Scotland Neck would adopt a transfer plan. In this case, however, such evidence does appear in the record. The school facilities in Warrenton had a capacity of 1,000 to 1,200 students but the Warrenton City Unit contained only 206 resident students. The district court found that Warren County could not accommodate its present students without utilizing the surplus space in Warrenton and that Warrenton could not maintain acceptable educational standards in a 12-grade school system containing only 200 students. Thus, Warrenton could not operate a separate school system without a substantial number of students transferring from the county. In addition, there was direct testimony by State Senator Julian Allsbrock, one of the sponsors of the Littleton-Lake Gaston bill, that there was some discussion of students transferring into the Littleton-Lake Gaston School District while the bill was pending. Volume III, Record on Appeal, Transcript of Hearing at Raleigh, North Carolina, December 17, 1969, at 23, 59.

APPENDIX G

Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, provides:

"(a) Whenever the Attorney General receives a complaint in writing—

> (1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or
>
> (2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin,

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of procedings instituted pursuant to this

section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

"(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

"(c) The term 'parent' as used in this section includes any person standing in loco parentis. A 'complaint' as used in this section is a writing or document within the meaning of section 1001, Title 18, United States Code."

APPENDIX H

Chapter 31 of the 1969 Session Laws of North Carolina, is entitled and provides:

"AN ACT TO IMPROVE AND PROVIDE PUBLIC SCHOOLS OF A HIGHER STANDARD FOR THE RESIDENTS OF SCOTLAND NECK IN HALIFAX COUNTY, TO ESTABLISH THE SCOTLAND NECK CITY ADMINISTRATIVE UNIT, TO PROVIDE FOR THE ADMINISTRATION OF THE PUBLIC SCHOOLS IN SAID ADMINISTRATIVE UNIT, TO LEVY A SPECIAL TAX FOR THE PUBLIC SCHOOLS OF SAID ADMINISTRATIVE UNIT, ALL OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE VOTERS IN A REFERENDUM OR SPECIAL ELECTION

"SECTION 1. There is hereby classified and established a public school administrative unit to be known and designated as the Scotland Neck City Administrative Unit which shall consist of the territory or area lying and being within the boundaries or corporate limits of the Town of Scotland Neck in Halifax County, and the boundaries of said Scotland Neck City Administrative Unit shall be coterminous with the present corporate limits or boundaries of the Town of Scotland Neck. The governing board of said Scotland Neck City Administrative Unit shall be known and designated as the Scotland Neck City Board of Education, and said Scotland Neck City Board of Education (hereinafter referred to as: Board) shall have and exercise all of the powers, duties, privileges and authority granted and applicable to city administrative units and city boards of education as set forth in Chapter 115 of the General Statutes, as amended.

"SEC. 2. The Board shall consist of five members appointed by the governing authority of the Town of Scotland Neck, and said five members shall hold office until the next regular municipal election of the Town of Scotland Neck to be held in May, 1971. At the regular election for Mayor and Commissioners of the Town of Scotland Neck to be held in May 1971, there shall be elected five members of the Board, and three persons so elected who receive the highest number of votes shall hold office for four years and the two persons elected who receive the next highest number of votes shall hold office for two years, and thereafter all members of the Board so elected, as successors, shall hold office for four years. All members of the Board shall hold their offices until their successors are elected and qualified. All members of the Board shall be eligible to hold public office as required by the Constitution and laws of the State.

"SEC. 3. All members of the Board shall be elected by the qualified voters of the Town of Scotland Neck and said election shall be held and conducted by the governing authority of the Town of Scotland Neck and by its election officials and pursuant to the same laws, rules and regulations as are applicable to the election of the municipal officials of the Town of Scotland Neck, and the results shall be certified in the same manner. The election of members of the Board shall be held at the same time and place as applicable to the election of the Mayor and Board of Commissioners of the Town of Scotland Neck and in accordance with the expiration of terms of office of members of the Board. The members of the Board so elected shall be inducted into office on the first Monday following the date of election, and the expense of the election of the members of the Board shall be paid by the Board.

"SEC. 4. At the first meeting of the Board appointed as above set forth and of a new Board elected as herein provided, the Board shall organize by electing one of its members as chairman for a period of one year, or until his successor is elected and qualified. The chairman shall preside at the meetings of the Board, and in the event of his absence or sickness, the Board may appoint one of its members as temporary chairman. The Scotland Neck City Superintendent of Schools shall be ex officio secretary to his Board and shall keep the minutes of the Board but shall have no vote. If there exists a vacancy in the office of Superintendent, then the Board may appoint one of its members to serve temporarily as secretary to the Board. All vacancies in the membership of the Board by death, resignation, removal, change of residence or otherwise shall be filled by appointment by the governing authority of the Town of Scotland Neck of a person to serve for the unexpired term and until the next regular election for members of the Board when a successor shall be elected.

"SEC. 5. All public school property, both real and personal, and all buildings, facilities, and equipment used for public school purposes, located within the corporate limits of Scotland Neck and within the boundaries set forth in Section 1 of this Act, and all records, books, moneys budgeted for said facilities, accounts, papers, documents and property of any description, shall become the property of Scotland Neck City Administrative Unit or the Board; all real estate belonging to the public schools located within the above-described boundaries is hereby granted, made over to, and automatically by force of this Act conveyed to the Board from the County public school authorities. The Board of Education of Halifax County is authorized and directed to execute any and

all deeds, bills of sale, assignments or other documents that may be necessary to completely vest title to all such property in the Board.

"SEC. 6. Subject to the approval of the voters residing within the boundaries set forth in Section 1 of this Act, or within the corporate limits of the Town of Scotland Neck, as hereinafter provided, the governing authority of the Town of Scotland Neck, in addition to all other taxes, is authorized and directed to levy annually a supplemental tax not to exceed Fifty Cents (50¢) on each One Hundred ($100.00) Dollars of the assessed value of the real and personal property taxable in said Town of Scotland Neck. The amount or rate of said tax shall be determined by the Board and said tax shall be collected by the Tax Collector of the Town of Scotland Neck and paid to the Treasurer of the Board. The Board may use the proceeds of the tax so collected to supplement any object or item in the school budget as fixed by law or to supplement any object or item in the Current Expense Fund or Capital Outlay Fund as fixed by law.

"SEC. 7. Within ten days from the date of the ratification of this Act it shall be the duty of the governing authority of the Town of Scotland Neck to call a referendum or special election upon the question of whether or not said Scotland Neck City Administrative Unit and its administrative board shall be established and whether or not the special tax herein provided shall be levied and collected for the purposes herein provided. The notice of the special election shall be published once a week for two successive weeks in some newspaper published in the Town of Scotland Neck or having a general circulation in the Town of Scotland Neck. The notice shall contain a brief statement of the purpose of the special election, the area in which it shall be held, and that a vote by a majority

of those voting in favor of this Act will establish the Scotland Neck City Administrative Unit and its Administrative Board as herein set forth, and that an annual tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property, according to each One Hundred Dollars ($100.00) valuation, the rate to be fixed by the Board, will be levied as a supplemental tax in the Town of Scotland Neck, for the purpose of supplementing any lawful public school budgetary item. A new registration of voters shall not be required and in all respects the laws and regulations under which the municipal elections of the Town of Scotland Neck are held shall apply to said special election. The governing authority of the Town of Scotland Neck shall have the authority to enact reasonable rules and regulations for the necessary election books, records and other documents for such special election and to fix the necessary details of said special election.

"SEC. 8. In said referendum or special election a ballot in form substantially as follows shall be used:

VOTE FOR ONE:

(☐) FOR creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and for supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

(☐) AGAINST creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and against supplemental tax not to exceed Fifty Cents (50¢) on the assessed valua-

tion of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

"If a majority of the qualified voters voting at such referendum or special election vote in favor of establishing Scotland Neck City Administrative Unit, for creation of administrative Board to operate public schools of said Unit and for special supplemental tax as herein set forth, then this Act shall become effective and operative as to all its provisions upon the date said special election results are canvassed and the result judicially determined, otherwise to be null and void. The expense of said referendum or special election shall be paid by the governing authority of the Town of Scotland Neck but if said Unit and Board are established, then said Town of Scotland Neck shall be reimbursed by the Board for said expense as soon as possible.

"SEC. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

"SEC. 10. This Act shall be in full force and effect according to its provisions from and after its ratification."

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E. ROBERT SEAVE

IN THE

Supreme Court of the United States

October Term, 1970

~~No. 1614~~ 70-130

UNITED STATES OF AMERICA,

Petitioner,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,

Respondents.

BRIEF OF SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL., RESPONDENTS, IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

WILLIAM T. JOYNER
Post Office Box 109
Raleigh, North Carolina 27602

C. KITCHIN JOSEY

Counsel for Scotland Neck City Board of Education, Respondent

ROBERT MORGAN
Attorney General of North Carolina

RALPH MOODY
Deputy Attorney General

Counsel for State of North Carolina, Respondent

GOVERNMENT PRINTING COMPANY, RALEIGH, N. C.

INDEX

	PAGE
Opinions below	1
Jurisdiction	1
Constitutional and Statutory Provisions involved	2
Question presented	2
Statement	2
Argument	4
Conclusion	9
Appendix A	1a

CITATIONS

CASES:

Brewer v. School Board of the City of Norfolk, 397 F. 2d 37	3
Green v. School Board of New Kent County, 391 U.S. 430	3
Haney v. County Board of Education of Sevier County, 410 F. 2d 920	3
Swann v. Charlotte-Mecklenburg Board of Education No. 281, Oct. Term, 1970, decided April 20, 1971	4, 5, 6, 7, 8, 9

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No. 1614

UNITED STATES OF AMERICA,

Petitioner,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,

Respondents.

BRIEF IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

The Scotland Neck City Board of Education, Respondent herein, opposes the granting of the Petition for Writ of Certiorari filed by the United States of America, Petitioner, to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinions below are set forth in the Appendices to the Petition. Respondent has included in Appendix A the order of the Court of Appeals dated April 21, 1971, staying the mandate in the above cases upon conditions stated.

JURISDICTION

The jurisdictional requisites are set forth adequately in the Petition.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The constitutional and statutory provisions involved are set forth in the Petition.

QUESTION PRESENTED

We challenge the correctness of the phrase " . . . even if the establishment of a unitary system is thereby impaired . . . " embodied in Petitioner's statement of the question presented. We submit that the following is a proper statement of the question presented:

Whether any person is deprived of a constitutional right by a State statute creating a new school district under these known conditions: (1) with the boundary lines of the new school district the same as the long-established boundaries of the City, and (2) with the school operation to be completely unitary and to include all resident students without any regard to race, and (3) with a City population of 50% black and 50% white, and (4) when there is nothing in the record to suggest that the residential composition of the City has resulted in any part from law-imposed segregation.

STATEMENT

For a more complete understanding of the situation we desire to supplement Petitioner's "Statement."

For many years, until 1936, the City of Scotland Neck was a separate school district operating independently of the Halifax County School system into which it was then merged. In 1963 plans were formulated for the creation of a separate unit for the schools of Scotland Neck, but did not crystalize until too late to seek legislative action. An effort to achieve a separate school unit including Scotland Neck was defeated in 1965. In 1968 plans were begun to achieve

legislative action. They culminated in the 1969 Act (Pet. App. D, pp. 69a-72a).

Those 1963, 1965, and 1968 movements preceded the decision of this Court in *Green v. School Board of New Kent County*, 391 U.S. 430, May 27, 1968, and its companion cases.

The District Court, in its opinion, stated, by footnote, that if the Scotland Neck act should be held to be constitutional there would be presented no difficulty in handling transfers in and out, under the supervision of the District Court, in such a manner as to prevent future unreasonable racial imbalance (Pet. App. D, p. 75a).

The majority opinion in the Court of Appeals stated:

"Although there are more white students than black students in Scotland Neck, the white majority is not large, 57.3 percent white and 42.6 percent black. Since all students in the same grade would attend the same school, the system would be integrated throughout. There is no indication that the geographic boundaries were drawn to include white students and exclude black students as there has been in other cases where the courts have ordered integration across school district boundaries. *Haney v. County Board of Education of Sevier County*, 410 F. 2d 920 (8th Cir. 1969). The city limits provide a natural geographic boundary. There is nothing in the record to suggest that the greater percentage of white students in Scotland Neck is a product of residential segregation resulting in part from state action. See *Brewer v. School Board of the City of Norfolk*, 397 F. 2d 37 (4th Cir. 1968)" (Pet. App. A, p. 15a).

The removal of all school children living in Scotland Neck from the Halifax County School District would cause the ratio of black students in the remaining school district to increase 3 percentage points. In 1968-69 the ratio was 77%

black. The removal of all Scotland Neck students from the Halifax District would result in a black ratio of 80% in that district (Pet. App. A, p. 14a).

ARGUMENT

I. CONSTITUTIONAL JUSTIFICATION OF FORCED PUPIL ASSIGNMENTS

The *Swann* case, *infra*, disposes of the issue in this case.

The question presented in this case is settled, we contend, by the law as declared by this Court in the case of *Swann v. Charlotte-Mecklenburg Board of Education No. 281*, October Term, 1970, decided April 20, 1971 (not yet reported).

It is undisputed, as disclosed by the opinion of the District Court, the opinion of the Court of Appeals and the dissents in the Court of Appeals (Petitioner's Appendices D, p. 63a; A, p. 1a; and B, p. 27a, respectively) that:

A. the new Scotland Neck School District has a present population ratio of about 50% black and 50% white and that the anticipated school population would be approximately 43% black and 57% white (if the school district can be established before a very substantial number of the white students leave it); and

B. the Scotland Neck City limits, (boundaries of the new school district) were of long standing and were drawn without any racial considerations; and

C. the residential composition established in Scotland Neck did not reflect any effort of any law-compelled segregation or any other law cause; and

D. the new school district would enroll all resident children and would permit transfers in and out only

in accordance with a plan to be approved and thereafter observed by the District Court; and

E. the new Scotland Neck School District would be completely unitary in a community with a strong intent to make that unitary school work and work now; and

F. withdrawal of the Scotland Neck School District from the Halifax County School District would change the ratio of black students in that County District from 77% to 80%.

We can see no sound contention which can be made by the Petitioner that any person has been deprived of any constitutional right unless some black student, outside of the boundaries of Scotland Neck, should show that he has a right to demand that some white student or students be assigned outside of their residence area, Scotland Neck, to one or more schools in the outer areas, in order to lower the black ratios there.

As we understand the opinion of this Court in the *Swann* case, *supra,* such demand could not be enforced as a constitutional right unless such relief is a part of the dismantling of a former law-imposed segregated structure in the school district. That must mean that it is a part of the uprooting or the tearing down of a part of a condemned segregated system.

But the residential composition of the City of Scotland Neck was not caused by a segregated school system. Its population grew from natural causes. The very creation of the new Scotland Neck School District requiring attendance by every resident student in the same unitary school was a complete dismantling of any segregation structure in Scotland Neck. Thereafter there was left no root or branch of school segregation in that City.

Therefore to assign students resident in Scotland Neck to a school in Scotland Neck is not any perpetuation of any

root or branch of the segregated system. It is the operation of a natural right inherent in the children resident in Scotland Neck.

The natural assignment of a Scotland Neck resident pupil to a school in his city is his constitutional right, absent a remaining root or branch, in Scotland Neck, of a law-imposed segregated system.

There is nothing in the opinions or in the appendices to the Petition which shows in Scotland Neck any remaining remnant of the old law-imposed segregation. Therefore to require the assigning of Scotland Neck resident students to schools beyond the city boundaries cannot be supported as a part of dismantling a law-imposed segregation structure.

II. REQUIREMENT OF FIXED RATIOS

There is no constitutional requirement of uniform racial ratios in all portions of a county or district.

As we understand the pronouncements of this Court in the *Swann* case, *supra*, there is no constitutional requirement that there shall be established, in a county or in any area, fixed or uniform racial ratios. Then, it would follow that there is nothing constitutionally wrong in having a 43-57 ratio in urban Scotland Neck, and in having an 80-20 ratio in the primarily rural remainder of the Halifax County School District. Such divergence in ratios would be unconstitutional only if the Scotland Neck residential composition was caused in some part by past *de jure* segregation. But, we have seen that there is no evidence in this case that *de jure* segregation affected in any way the resident composition in the City of Scotland Neck.

If urban students are to be moved across city residential lines to several rural communities solely to make more uniform the racial balances, then the medicine forced on Scotland

Neck should be forced likewise on all of the cities throughout the United States.

It is natural and to be expected that there should be substantial differences in the residential composition of urban and rural communities.

The crux of the dissents in the Court of Appeals appears to be stated clearly by Judge Sobeloff in Appendix B to the Petition for Certiorari on page 36a where he says:

> "The relevant question is what *change* in degree of integration has been effected by the creation of the new district. Here the change is an increase in the percentage of white pupils from 22% to 57%."

The 22% was the average percent of white students in the entire Halifax County School District from the latest available attendance records. The 57% was the percent of white students resident in Scotland Neck. The quoted statement assumes that 22% was the percent which the Court should require for Scotland Neck. That assumption, we submit, is not supportable.

As this Court held in the *Swann* case, *supra,* the Constitution does not require the same ratios in all areas of a district, and the Constitution does not require cross residential area integration in the absence of a distortion of residential pattern caused by State imposed segregation. As we understand it, a main point in the *Swann* decision, *supra,* is that the constitutional power of assignment out of residential area is not supported by a mere desire for integration but only by a requirement necessary to dismantle a segregation structure imposed by law. In view of the fact that there is no evidence in the record even suggesting that the Scotland Neck racial composition was the result of any State law-imposed segregation, it would seem that the comment of Judge Sobeloff is not in point.

The point made in that dissent is answered conclusively, we submit, by this Court when it said in the *Swann* case, *supra,* (bottom of page 19 and top of page 20):

> "The District Judge went on to acknowledge that variation 'from that norm may be unavoidable.' This contains intimations that the 'norm' is a fixed mathematical racial balance reflecting the pupil constituency of the system. If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole."

III. THE WHITE FLIGHT PROBLEM

The District Court's invalidation of the North Carolina Legislative Act was based solely on its determination that the Legislature, in its effort to achieve higher quality education in the Scotland Neck Schools, was motivated in part by a desire to stem or to diminish "the flight" of white students from the public schools.

The majority of the members of the Court of Appeals disagreed. The minority of the Court of Appeals and the United States in its Petition for Certiorari appeared to be indifferent to the white flight threat to schools. We submit that the majority opinion of the Court of Appeals is correct. It is certain that there is that threat and that it poses a peril to public schools. It cannot be ignored. We submit that a move to improve the quality of public education, directed in part to deterring the departure of any students from the public schools, cannot be condemned unless it invades the constitutional right of some person. If we are correct in our arguments I. and II. above, there is no constitutional invasion.

If a Legislative establishment of Scotland Neck as a separate school district arose only as a result of the motive to

establish quality education by obtaining more money and more community support, the act would have been constitutional. Then, the additional motive to stem the flight of white or black students from the schools cannot make it unconstitutional.

CONCLUSION

We submit, as we have set forth above, that the question here involved is answered by the pronouncements of this Court in *Swann v. Board of Education, supra.* Therefore, we submit that the matter should be concluded now by a denial of certiorari.

For the foregoing reasons it is prayed that the Petition for Writ of Certiorari be denied.

Respectfully submitted,

WILLIAM T. JOYNER
Post Office Box 109
Raleigh, North Carolina 27602
A Member of the Bar of the Supreme Court of the United States

C. KITCHIN JOSEY
A member of the Bar of the Supreme Court of the United States
Counsel for Scotland Neck City Board of Education, Respondent

HON. ROBERT MORGAN
Attorney General of North Carolina
Post Office Box 629
Raleigh, North Carolina 27602
A member of the Bar of the Supreme Court of the United States

RALPH MOODY
Deputy Attorney General of North Carolina
A member of the Bar of the Supreme Court of the United States
Counsel for the State of North Carolina

APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 14,929

UNITED STATES OF AMERICA, AND PATTIE BLACK COTTON, EDWARD M. FRANCIS, PUBLIC SCHOOL TEACHERS, OF HALIFAX COUNTY, ET AL.,

Appellees,

vs.

SCOTLAND NECK CITY BOARD OF EDUCATION A BODY CORPORATE,

Appellant.

No. 14,930

UNITED STATES OF AMERICA, AND PATTIE BLACK COTTON, EDWARD M. FRANCIS, PUBLIC SCHOOL TEACHERS, OF HALIFAX COUNTY, AND OTHERS,

Appellees,

vs.

ROBERT MORGAN, ATTORNEY GENERAL OF NORTH CAROLINA, THE STATE BOARD OF EDUCATION OF NORTH CAROLINA, AND DR. A. CRAIG PHILLIPS, NORTH CAROLINA STATE SUPERINTENDENT OF PUBLIC INSTRUCTION,

Appellants

STAY OF MANDATE

The motion to stay our mandate pending application for certiorari is allowed on the following conditions:

(1) That appellees (in the district court) file their petition for writ of certiorari on or before May 21, 1971, and, if possible, prior thereto, and that said appellees proceed with all possible diligence to prosecute their petition to the end that it may be considered by the Supreme Court of the United States before the end of its current term;

(2) With the consent of the United States, the district court injunction is modified so as to allow certification and levy, but not the collection, of taxes for the Scotland Neck City Board of Education.

This 21st day of April, 1971.

FOR THE COURT:

J. Braxton Craven, Jr.
United States Circuit Judge

A True Copy, Teste:
Samuel W. Phillips, Clerk
By Virginia Lipford,
Deputy Clerk

Supreme Court, U.S.
FILED
MAY 20 1971

IN THE

Supreme Court of the United States

October Term, 1970.

No. ~~[illegible]~~ 70-187

PATTIE BLACK COTTON, *et al.*,

Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, *et al.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN J. CHACHKIN
10 Columbus Circle
New York, New York 10019

J. LEVONNE CHAMBERS
ADAM STEIN
237 West Trade Street
Charlotte, North Carolina 28202

JAMES R. WALKER, JR.
501 West Third Street
Weldon, North Carolina 27890

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, North Carolina 27601

CONRAD O. PEARSON
203½ E. Chapel Hill Street
Durham, North Carolina 27702

Attorneys for Petitioners

Of Counsel:

CHAMBERS, STEIN, FERGUSON
AND LANNING
237 West Trade Street
Charlotte, North Carolina 28202

INDEX

	PAGE
Opinions Below	1
Jurisdiction	2
Question Presented	2
Constitutional and Statutory Provisions Involved	2
Statement of the Case	3
Reasons for Granting the Writ	6
Conclusion	9

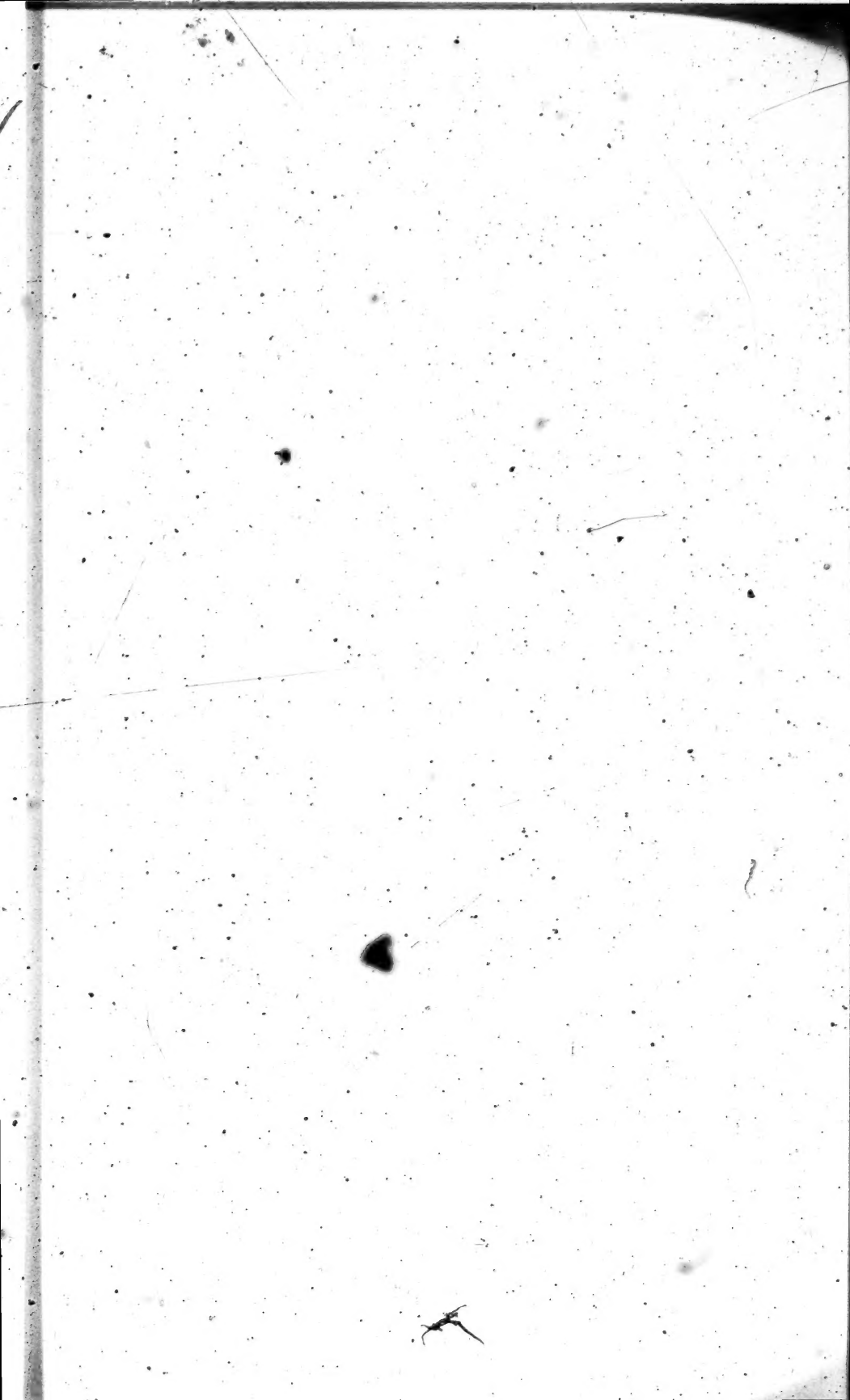
Table of Authorities

Cases:

Brown v. Board of Education, 347 U.S. 483 (1954)	6, 7, 8
Green v. School Board of New Kent County, 391 U.S. 430 (1968)	3, 6
Turner v. Littleton-Lake Gaston School District, —— F.2d —— (9th Cir., May 26, 1971)	5
Turner v. Warren County Board of Education, 313 F. Supp. 380 (E.D. N.C. 1970)	5
United States v. Scotland Neck City Board of Education, 314 F. Supp. 65 (E.D. N.C. 1970)	1

Constitution and Statutes:

United States Constitution, Fourteenth Amendment, Section 1	2
28 U.S.C. 1254	2
1969 Session Laws of North Carolina, Chapter 31	3, 4



IN THE

Supreme Court of the United States

October Term, 1970

No. .....

PATTIE BLACK COTTON; *et al.*,

Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, *et al.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Opinions Below

The opinion of the Court of Appeals and the dissenting opinions are not yet reported and are reprinted as Appendix A (pp. 1a-18a) and Appendix B (pp. 27a-55a) to the Petition for Writ of Certiorari heretofore filed by the United States in this case,[1] No. 1614, O.T. 1970.

The opinion and order of the district court entered on motion for preliminary injunction are not reported and are reprinted as Appendix C (pp. 56a-61a) to the Petition for Writ of Certiorari filed by the United States.

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[1] *United States of America* v. *Scotland Neck City Board of Education*, No. 1614, O.T. 1970. All the appendix citations herein are to the appendices to the Petition filed by the United States.

The opinion and order on permanent injunction are reported at 314 F. Supp. 65 and are reprinted as Appendix D (pp. 62a-90a) to the Petition for Writ of Certiorari filed by the United States.

Jurisdiction

The judgment of the Court of Appeals was entered on March 23, 1971 and is reprinted as Appendix E (p. 91a) to the Petition for Writ of Certiorari filed by the United States. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

Question Presented

Whether the Court of Appeals erred in reversing a district court judgment voiding a statute which split the Halifax County school district on the ground that the "primary purpose" had not been shown to be "to retain as much separation of the races as possible," where one purpose for, and the effect of, the statute was to create school systems of substantially different racial composition.

Constitutional and Statutory Provisions Involved

This matter involves Section 1 of the Fourteenth Amendment to the Constitution of the United States, which provides:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any

person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Chapter 31 of the 1969 Session Laws of North Carolina is set out in Appendix H (p. 101a) to the Petition for Writ of Certiorari filed by the United States.

Statement

Petitioners join in the *Statement* of the United States, and show the following:

When this Court rendered its decision in *Green* v. *County School Bd. of New Kent County*, 391 U.S. 430 (1968), 97% of the black children in Halifax County were attending 14 all-black schools. Ten of the 450 teachers in the system were teaching across racial lines. Only 46 of the 875 students attending the Scotland Neck School were black; no whites and 1,151 blacks attended the Brawley School located less than a mile away just outside the corporate limits.

After *Green*, the United States Department of Justice informed the Halifax County Board of Education of its intention to file suit unless the dual system in Halifax County was promptly undone. Litigation was postponed upon the Board's assurance that interim steps would be taken for 1968-69[2] and complete desegregation would follow in 1969-70.

The Board called upon the North Carolina Department of Public Instruction to prepare a school survey and plan for desegregation. That plan was completed in December,

[2] The interim steps undertaken included the assignment of grades seven and eight from all-black Brawley to the Scotland Neck School.

1968, calling for attendance zones, altering of grade structures, and pairings. Long-range plans for new school construction were also suggested. The immediate plan for 1969-70 included the Scotland Neck and Brawley schools within the same attendance zone, with assignment of grades 5-6 and 10-12 to Scotland Neck, and grades 1-4 and 8-9 to Brawley.

The Government and the Board agreed upon the State Department's plan. Shortly thereafter, however, the Board reneged upon its agreement and a bill was offered and was quickly passed by the North Carolina Legislature to create a new school district in Scotland Neck.[3] The Scotland Neck School was the only school facility located within the new unit.

The United States has shown that the racial composition of the new Scotland Neck system would be substantially whiter than the former Halifax system—57% white in Scotland Neck and 22% in the former Halifax district.[4] The following chart shows the dramatic change in the racial composition in the particular schools which would have been directly affected by Chapter 31:

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[3] The bill became Chapter 31 of the 1969 Session Laws (see Appendix H, p. 101a).

[4] The white ratio in Halifax would be reduced to 19% with the implementation of the new district.

	Scotland Neck School			Brawley School		
	White	Black	% Black	White	Black	% Black
1967-68 (the year of *Green*)	829	46	5.3%	0	1151	100.0%
1968-69 (after transfer of grades 7 and 8 from Brawley to Scotland Neck)	786	193	19.7%	0	1106	100.0%
1969-70						
a) Plan prepared by State Staff	325	690	68.0%	330	740	69.2%
b) If Chapter 31 were implemented	399	296	42.6%	83	807	90.7%

The United States filed suit in June, 1969 seeking an injunction against the implementation of Chapter 31 and an order requiring desegregation of the Halifax County schools. A preliminary injunction stayed the implementation of the new unit on August 8, 1969. The Attorney General of North Carolina intervened as a defendant on behalf of the State of North Carolina in October, 1969.

On December 17, 1969, a motion to intervene was filed on behalf of Pattie Cotton, et al., the petitioners herein, which was allowed shortly thereafter. The complaint in intervention attacked not only the creation of the Scotland Neck unit, but also the Littleton-Lake Gaston District, which was to be carved out of parts of both Halifax and Warren Counties.[5] The intervenors included 74 black children

[5] The creation of the Littleton-Lake Gaston unit was declared unconstitutional and enjoined in a supplemental proceeding in the Warren County case. *Turner* v. *Warren County Board of Education*, 313 F. Supp. 380. The Court of Appeals affirmed that holding on the same day it decided this case. *Turner* v. *Littleton-Lake Gaston School Dist.* (Appendix F to the Petition for Writ of Certiorari in No. 1416, O.T. 1970).

and their parents residing in Scotland Neck, 14 black students and their parents living within the Littleton-Lake Gaston District, and two black school teachers.

The final injunction was entered by district judges Butler and Larkins[6] on May 26, 1970 (pp. 62a-90a), and the decision below on March 23, 1971 (pp. 1a-18a).

Reasons for Granting the Writ

We think the United States has set forth compelling reasons why this Court should review the decision below. (1) The Court of Appeals has adopted an approach and a standard which threatens rights guaranteed by *Brown* v. *Board of Education*, 347 U.S. 483 (1954) for many black schoolchildren.[7] (2) The "primary purpose" test encourages the creation of new school districts where whites would enjoy a more favorable racial ratio.[8] (3) The test promises a "quagmire of litigation."[9] (4) The new test conflicts with this Court's requirement that a compelling and overriding State interest must be shown where State action has a racially discriminatory effect.[10] (5) It conflicts with the heavy burden which *Green* v. *County School Bd.*

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[6] Judges Butler and Larkins sat together to hear and decide the constitutionality of the three new units created by the 1969 Legislature—Warrenton, Littleton-Lake Gaston (313 F. Supp. 380) and Scotland Neck. All were found by them to impede desegregation and were declared unconstitutional.

[7] Petition for Writ of Certiorari in No. 1614, pp. 7-9; dissent of Judge Sobeloff (pp. 10a-12a); dissent of Judge Winter (p. 36a).

[8] Petition for Writ of Certiorari in No. 1614, p. 8; dissent of Judge Sobeloff (p. 30a); dissent of Judge Winter (pp. 45a-46a).

[9] Petition for Writ of Certiorari in No. 1614; p. 10; dissent of Judge Sobeloff (p. 42a).

[10] Petition for Writ of Certiorari in No. 1614, pp. 9-10; dissent of Judge Sobeloff (pp. 28a-35a).

of New Kent County, 391 U.S. 430 (1968) placed upon school boards to justify a desegregation plan less effective than available alternatives.[11] (6) The opinion below failed to give proper weight to the judgment of experienced district judges acting within their broad discretion in framing an equitable remedy to afford rights granted by the Constitution and guaranteed by *Brown*.[12] (7) The decision below conflicts with decisions of other Courts of Appeals.[13] We add only the following comments:

The government and dissenting judges below have rightly, we think, emphasized the substantial disproportion between the racial ratios of the seceding school district (57:43 white:black) and the whole school population of Halifax County (22:77 white:black). We think the chart above showing attendance and projected attendance at the traditionally white Scotland Neck School and the neighboring traditionally black Brawley School is helpful in understanding what the proponents of the new district sought to accomplish. As Judge Winter noted, "local legislation is enacted as a result of local desire and pressure" (46a). The local initiative in this case came from whites in Scotland Neck, in an attempt to keep their white school as white as possible. Under freedom of choice, only 5.3% of the students in their school were black. When the Justice Department insisted upon some desegregation progress for the 1968-69 school year, the County School Board moved the 7th and 8th grades from Brawley to Scotland Neck, raising the black enrollment to 19.7%. The complete desegregation plan drawn by State educational officials, accepted by the Justice Department, and initially agreed

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[11] Petition for Writ of Certiorari in No. 1614, p. 9; dissent of Judge Winter (pp. 44a-46a).

[12] Petition for Writ of Certiorari in No. 1614, p. 10.

[13] Petition for Writ of Certiorari in No. 1614, pp. 11-12.

to by the School Board, would have increased the black population at Scotland Neck to 68%. It would also have assigned whites to Brawley for the first time, with a resulting black enrollment of 69.2%. It was then that the County Board reneged upon its agreement and the secession bill was introduced in the Legislature.

With the creation of a new district, the Scotland Neck School would remain majority white. Instead of a 68% *black* majority under the State plan, it would have a 67.4% *white* majority and the number of white students assigned to Brawley would be reduced from 330 to 83. Moreover, the transfer arrangements which were planned for and established by the new unit offered a refuge for whites residing in the county who could afford the tuition. Thus, at the time the case was heard upon motion for preliminary injunction, transfers of whites in and blacks out had resulted in an increase in the white percentage in the Scotland Neck School from 57% to 74% (13a, 38a-39a, 51a-52a).[14]

By reversing the district court, the Court of Appeals has failed to keep the promise of *Brown*. In so doing, it has established and applied a new rule which invites more delay, more litigation, and more segregation. The district judges concluded that if implemented, Chapter 31 would impede rather than further desegregation in Halifax

[14] The Court of Appeals thought these transfers to be irrelevant in determining the constitutionality of Chapter 31, although clearly unconstitutional in themselves (p. 13a). Similar transfers, however, were apparently significant and controlling in the Court's conclusion that the statute creating the Littleton-Lake Gaston unit was unconstitutional (pp. 97a-98a). We think that Chapter 31 was clearly shown to impede desegregation in Halifax County without reference to the transfer plan, but agree with Judges Sobeloff and Winter (pp. 38a-39a; 51a-52a) that the transfers were relevant evidence.

County, and enjoined operation of the statute. That was the proper inquiry. The conclusion was inescapable. The decision of the district court should have been affirmed.

CONCLUSION

WHEREFORE, for the foregoing reasons, petitioners respectfully pray that a Writ of Certiorari be granted.

Respectfully submitted,

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN J. CHACHKIN
10 Columbus Circle
New York, New York 10019

J. LEVONNE CHAMBERS
ADAM STEIN
237 West Trade Street
Charlotte, North Carolina 28202

JAMES R. WALKER, JR.
501 West Third Street
Weldon, North Carolina 27890

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, North Carolina 27601

CONRAD O. PEARSON
203½ E. Chapel Hill Street
Durham, North Carolina 27702

Attorneys for Petitioners

Of Counsel:

CHAMBERS, STEIN, FERGUSON
AND LANNING
237 West Trade Street
Charlotte, North Carolina 28202

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FILED
JUN 1 1971
E. ROBERT SEAVER, CL

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. ~~1729~~ 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

BRIEF OF SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL., RESPONDENTS, IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

WILLIAM T. JOYNER
Post Office Box 109
Raleigh, North Carolina 27602

C. KITCHIN JOSEY
Counsel for Scotland Neck City
Board of Education, Respondent

ROBERT MORGAN
Attorney General of North Carolina

RALPH MOODY
Deputy Attorney General
Counsel for the State of North
Carolina, Respondent

COMMERCIAL PRINTING COMPANY, RALEIGH, N. C.

INDEX

	PAGE
Opinions below	1
Jurisdiction	1
Constitutional and Statutory Provisions involved	2
Question presented	2
Statement	2
Argument	2
Conclusion	5

CITATIONS

CASES:

Swann v. Charlotte-Mecklenburg Board of Education, No. 281, *Oct. Term, 1970*, decided April 20, 1971	3, 4, 5

IN THE

Supreme Court of the United States

October Term, 1970

No. 1729

PATTIE BLACK COTTON, ET AL.,
Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.,
Respondents.

BRIEF OF SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL., RESPONDENTS, IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

The Scotland Neck City Board of Education, et al., Respondents herein, oppose the granting of the Petition for Writ of Certiorari filed by Pattie Black Cotton, et al., Petitioners, to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinions below are as described in the Petition.

JURISDICTION

The jurisdictional requisites are set forth adequately in the Petition.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The constitutional and statutory provisions involved are set forth in the Petition.

QUESTION PRESENTED

We do not challenge Petitioners' statement of "Question Presented". However, we submit that it could be stated more correctly and succinctly thus:

Is it unconstitutional " . . . to create school systems of substantially different racial composition"?

STATEMENT

We refer to, and include here by reference, Respondents' "Statement" in their Brief in reply to the Petition for Certiorari filed by the United States of America in the companion case number 1614.

ARGUMENT

We refer to, and include here by reference, Respondents' "Argument" in their Brief in number 1614 in reply to the Petition for Certiorari filed by the United States of America.

Petitioners in this cause, number 1729, hinge their whole argument on differences in racial composition. They base their case on the tabulation set forth at the top of page five of the Petition. They argue that either a statute creating a new school district, or a Board plan reassigning students to schools in the district, violates the Constitution of the United States if it makes a substantial variation from the average racial ratio of the old district. Petitioners say plainly that the North Carolina statute is unconstitutional because the new Scotland Neck district would have an initial

ratio of 57% white to 43% black whereas the ratio in the total district from which Scotland Neck was carved, both rural and city, was 27% white to 73% black.

In so doing, Petitioners stand flatly on the position stated by the Court of Appeals dissenters that the statute was unconstitutional because of the change of the black-white ratios. We adverted to those dissents in our reply in number 1614 to the Petition for Certiorari by the United States Government. On pages seven and eight of our Brief in reply we give our answer to the dissenters' positions. We refer to those pages.

It is very notable that the Petitioners in this case, number 1729, did not even refer to the momentous decision of this Court handed down on the 20th day of April, 1971, *Swann v. Charlotte-Mecklenburg Board of Education*, number 281, argued October 12, 1970, decided April 20, 1971. Petitioners' omission to refer to the *Swann* case is even more notable in view of the fact that we relied on the *Swann* case in our Brief filed in reply to the Petition for Certiorari filed by the United States of America in number 1614. That Brief was received by two of the counsel signing the Petition in this case, number 1729, on May 2nd and 3rd, 1971, respectively.

In addition to what we said in that Brief in number 1614, (including a quotation from the *Swann* case, pages 19-20 of the United States Law Week report, to the effect that if the district judge had required " . . . as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse."), we wish to add an additional quotation from the *Swann* case. On page twenty-three of the United States Law Week report of opinion in that case, the Court said, "Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign

pupils to schools nearest their homes." Notwithstanding that plain language, Petitioners fail to point out any constitutional violation in the establishment of the Scotland Neck district.

That district followed natural city limit lines, contained no "gerrymandering", and had a nearly evenly mixed population of black and white with no indication in the record of the residential population composition having resulted in any way from *de jure* segregation or racial discrimination in any form. In the new Scotland Neck district there was to be complete and total integration. There was only one school. All of the white children and all of the black children within the city limits of Scotland Neck would be assigned to that integrated school. Transfers would be effectuated only under the control of the Federal District Court and in accordance with such plan as might be approved by the Federal District Court. The very establishment of such a new school district completely dismantled every vestige of segregation within the borders of the City of Scotland Neck. There was not even a root left. How can any black student in a rural school assert that he or she has a constitutional right to have white students living in Scotland Neck assigned to his or her rural school?

Petitioners have not attempted to meet that point.

Petitioners have not attempted to meet any one of the points made in the important Section IV of the opinion in the *Swann* case. It must be that the Petitioners still cling to their contention made in the *Swann* case that a substantial variation from a fixed norm of district ratios is, in itself, unconstitutional. It is clear that Petitioners still cling to their contention that there is an affirmative duty to integrate or to mix even if the proposed change is not directed to a remaining vestige of the structure of discriminatory segregation.

We respectfully submit that Petitioners are merely arguing in their Petition that the unanimous pronouncement of this Court in the *Swann* case was wrong.

CONCLUSION

We have here a case of an attempt to provide better education for white and black students; a case of community effort toward peaceful progress rather than racial strife; a case of an effort to prove to all of Halifax County and to the world that, in a school of nearly evenly balanced racial ratios, white and black children can work and live in peace and harmony and with due respect one for the other.

We submit, as we have set forth above, that the question here involved is answered by the pronouncements of this Court in *Swann v. Board of Education, supra.* Therefore, we submit that the matter should be concluded now by a denial of certiorari.

For the foregoing reasons it is prayed that the Petition for Writ of Certiorari be denied.

Respectfully submitted,

WILLIAM T. JOYNER
Post Office Box 109
Raleigh, North Carolina 27602

C. KITCHIN JOSEY

Counsel for Scotland Neck City Board of Education

ROBERT MORGAN
Attorney General of North Carolina
Post Office Box 629
Raleigh, North Carolina 27602

RALPH MOODY
Deputy Attorney General

Counsel for the State of North Carolina

Of Counsel:

Joyner and Howison
906 Wachovia Bank Building
Raleigh, North Carolina 27602

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IN THE

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October Term, 1971

No. 70-187

PATTIE BLACK COTTON, *et al.*,
Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, *et al.*

No. 70-188

PECOLA ANNETTE WRIGHT, *et al.*,
Petitioners,

v.

COUNCIL OF THE CITY OF EMPORIA, *et al.*

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN J. CHACHKIN
10 Columbus Circle
New York, New York 10019

J. LEVONNE CHAMBERS
ADAM STEIN
237 West Trade Street
Charlotte, North Carolina 28202

JAMES R. WALKER, JR.
501 West Third Street
Weldon, North Carolina 27890

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, North Carolina 27601

CONRAD O. PEARSON
203½ E. Chapel Hill Street
Durham, North Carolina 27702

S. W. TUCKER
HENRY L. MARSH, III
214 East Clay Street
Richmond, Virginia 23219
Attorneys for Petitioners

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COUNCIL OF THE CITY OF EMPORIA, *et al.*

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Counsel for petitioners in each of these cases, presently pending upon petitions for writs of certiorari, file this joint Supplemental Brief pursuant to Rule 24(5) of this Court. Significant decisions of federal and state courts have been rendered since the filing of the petitions for writs of certiorari, each of which underscores the importance and desirability of granting review in these cases.

The three pending matters referred to in footnote 10 at page 17 of the petition in No. 70-188 have been decided. In each instance, a rule contrary to that announced by the

United States Court of Appeals for the Fourth Circuit in these cases has been applied, to reach results opposite to those permitted by the decisions of which review is sought.

In *Lee* v. *Macon County Board of Education*, No. 30154 (5th Cir. June 29, 1971) (reprinted as Appendix A, pp. 1a-21a), the Court of Appeals for the Fifth Circuit required that a newly established separate city school district in Oxford, Alabama be treated, for purposes of relief in the pending school desegregation case, as part of the county system from which it was excised. The court explicitly eschewed deciding the matter on the basis of subjective intent, but instead emphasized the effect upon desegregation of the entire area if the new system had to be treated as a separate entity:

> The city cannot secede from the county where the effect—to say nothing of the purpose—of the secession has a substantial adverse effect on desegregation of the county school district. (11a)

Prior to the re-creation of a separate city school district in Oxford, white students from the county had crossed city boundaries to attend white schools in Oxford while black students from Oxford had attended the county training school outside the City limits (3a)—just as was true of Emporia and Greensville County (Petition in No. 70-188, p. 64a) and Scotland Neck and Halifax County (Petition in No. 70-187, p. 3). The Court of Appeals for the Fifth Circuit adopted a simple, clear and effective rule to ensure that the constitutional rights sought to be enforced by plaintiffs in school desegregation actions would not be frustrated by mid-litigation creation of new entities; at the same time, the Court of Appeals was solicitous of the State's interest in maintaining its control over its political organization:

> It is unnecessary to decide whether long established and racially untainted boundaries may be disregarded in dismantling school segregation. *New* boundaries cannot be drawn where they would result in less desegregation when formerly the lack of a boundary was instrumental in promoting segregation. *Cf. Henry* v. *Clarksdale Municipal Separate School District*, 5 Cir. 1969, 409 F.2d 683, 688, n. 10 [cert. denied, 396 U.S. 940 (1969)]. (11a-12a) (emphasis in original)

Similarly, in *Stout* v. *Jefferson County Board of Education*, Nos. 29886 and 30387 (5th Cir., July 16, 1971) (reprinted as Appendix B, pp. 22a-24a), another Fifth Circuit panel, citing the *Lee* v. *Macon County* decision and this Court's ruling in *North Carolina State Board of Education* v. *Swann*, —— U.S. ——, 28 L.Ed.2d 588, 589 (1971), directed that newly formed school districts be ignored in the development and implementation of an adequate desegregation plan on remand (24a):

> Likewise, where the formulation of splinter school districts, albeit validly created under state law, have the effect[2] of thwarting the implementation of a unitary school system, the district court may not, consistent with the teachings of *Swann* v. *Charlotte-Mecklenburg, supra*, recognize their creation.[3]

---

[2] The process of desegregation shall not be swayed by innocent action which results in prolonging an unconstitutional dual school system. The existence of unconstitutional discrimination is not to be determined solely by intent. *Cooper* v. *Aaron*, 358 U.S. 1 (1958); *Bush* v. *Orleans Parish School Board*, 190 F. Supp. 861 (E.D. La. 1960), aff'd *sub nom.*, *City of New Orleans* v. *Bush*, 333 U.S. 212 (1961); *United States* v. *Texas*, —— F. Supp. ——, Part II (E.D. Tex. 1971), aff'd as modified, *United States* v. *Texas*, —— F.2d —— (5th Cir., No. 71-1061, July 9, 1971).

[3] See, *Lee, et al.* v. *Macon County Board of Education*, —— F.2d —— (5th Cir. 1971) [No. 30154, June 29, 1971, Part II].

Jenkins v. Township of Morris School District, No. A-117 (Sup. Ct. N.J., June 25, 1971) (reprinted as Appendix C pp. 25a-53a) dealt with the power of the State Commissioner of Education, in carrying out the federal and state policies guaranteeing equal educational opportunity, to prohibit the withdrawal by a township of its high school students from the town educational system. The commissioner found that creation of a separate township high school system and withdrawal of its students, largely white, from the town high school, whose student body was becoming increasingly black, would have "adverse educational impact . . . in the light of the growing racial imbalance between the entire student populations of the town and the township" but concluded that state law did not give him the power to cross district lines. The Supreme Court of New Jersey rejected that view and ordered the commissioner not only to prevent withdrawal, but to consider merger on a 12-grade basis, because of the *effect* which could be anticipated even if separate elementary systems only were maintained:

> The projections leave little room for doubt as to the unfortunate future if suitable action is not taken in timely fashion. The commissioner explicitly referred to the growing racial imbalance between the town and the township and to its long range harmful *effects* on the school systems of both; and he recognized that unless forestalled there would be another urban-suburban split between black and white students. (50a) (emphasis supplied)

The New Jersey court emphasized (in connection with its discussion of the vote against consolidation in a nonbinding township referendum) that intent was not the standard upon which judgment was to be based:

> It has been suggested that it was motivated by constitutionally impermissible racial opposition to merger

> (*cf. Lee* v. *Nyquist, supra,* 318 F. Supp. 710; *West Morris Regional Board of Education* v. *Sills,* —— N.J. —— (1971)), but we pass that by since the commissioner made no finding to that effect and *his powers were, of course, in no wise dependent on any such finding.* (53a) (emphasis supplied)

Petitioners submit that these rulings by another United States Court of Appeals and a State Supreme Court apply to the resolution of problems identical to those presented in these two cases, standards which are directly contradictory to the standards announced by the Fourth Circuit. These new rulings, however, are completely consonant with the Eighth Circuit's decision in the *Burleson* case, 432 F.2d 1356 (8th Cir. 1970), *aff'g per curiam* 308 F. Supp. 352 (E.D. Ark. 1970). The sharpened conflict of decision between the Fourth, Fifth and Eighth Circuits compels resolution by this Court.

Finally, petitioners noted (Petition in No. 70-188, p. 17) that the device sanctioned below would prove an increasingly popular means of avoiding desegregation. The Fifth Circuit suggested the same thing in *Lee* v. *Macon County, supra* (11a):

> If this were legally permissible, there could be incorporated towns for every white neighborhood in every city.

This is borne out by the experience in Jefferson County, Alabama, where prior to the July 16 *Stout* decision, four new white school districts had been excised from the county. See the district court's order on remand, reprinted as Appendix D, pp. 54a-55a.

WHEREFORE, petitioners respectfully pray that writs of certiorari be granted and that the decisions below be reversed.

Respectfully submitted,

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN J. CHACHKIN
10 Columbus Circle
New York, New York 10019

J. LEVONNE CHAMBERS
ADAM STEIN
237 West Trade Street
Charlotte, North Carolina 28202

JAMES R. WALKER, JR.
501 West Third Street
Weldon, North Carolina 27890

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, North Carolina 27601

CONRAD O. PEARSON
203½ E. Chapel Hill Street
Durham, North Carolina 27702

S. W. TUCKER
HENRY L. MARSH, III
214 East Clay Street
Richmond, Virginia 23219

Attorneys for Petitioners

Appendix A

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

No. 30154

ANTHONY T. LEE, et al.,
Plaintiffs,

UNITED STATES OF AMERICA,
Plaintiff-Intervenor-Appellants,

NATIONAL EDUCATION ASSOCIATION, INC.,
Plaintiff-Intervenor,

versus

MACON COUNTY BOARD OF EDUCATION, et al.,

and

CALHOUN COUNTY SCHOOL SYSTEM,
Defendant-Appellee,

and

CITY OF OXFORD SCHOOL SYSTEM,
Defendant-Appellee.

Appeal from the United States District Court for the Middle District of Alabama

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(June 29, 1971)

Appendix A

Before WISDOM, COLEMAN, and SIMPSON, Circuit Judges.

WISDOM, Circuit Judge: This school desegregation case[1] involves the student assignment provisions of the plan for desegregating the public schools in Calhoun County, Alabama. The United States, plaintiff-intervenor, appeals from that portion of the court's order which would have the effect of leaving approximately 45 percent of this small district's Negro students in two virtually all-black schools; pairing alternatives would fully segregate both schools.[2] We feel compelled to reverse the district court on this issue.

I.

Calhoun County, in northeastern Alabama, has a county school system serving rural areas and incorporated municipalities not having their own separate

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[1]A three-judge court consisting of Circuit Judge Richard T. Rives and District Judge Frank M. Johnson, Jr. and H. H. Grooms was convened in 1964 to hear a constitutional challenge to an Alabama tuition grant law. See Lee et als v. Macon County Board of Education, et als, M.D. Ala., 1964, 231 F. Supp. 743. Ninety-nine local school systems, including Calhoun County's were involved in the suit. See Lee v. Macon County Board of Education, 1967, 267 F. Supp. 458, *aff'd sub nom.* Wallace v. United States, 1967, 389 U. S. 215. The court continued to sit in the school desegregation cases. By its order of June 12, 1970, the three-judge court transferred this case to the Northern District of Alabama under 28 U.S.C. § 1404(a). The matter giving rise to the June 12 order was not "required" to be heard by a three-judge court. The appeal therefore properly lies to this court. 28 U.S.C. 1253, 1291.

[2]Although the exact figures are not available to show the result of the district court's order, approximately 730 black students will be in the two all-black schools.

systems. There are five school systems in the county, the Calhoun County system and four city systems. In 1969-70, the county board operated 24 schools, of which two were all-black and ten all-white. The system had about 11,322 white and 1573 black students (12 percent). Over 1000 of the blacks were in the two all-black schools.[3] At issue here is the assignment of the students in these two schools, the Calhoun County Training School and the Thankful School. Necessarily involved in any desegregation plan are the formerly all-white schools in Oxford and Mechanicsville School, which is in a rural area. These schools lie closest to the all-black schools and present the most feasible opportunity for achieving desegregation by pairing.

Calhoun County Training School is located in all-black Hobson City, an incorporated town on the edge of Oxford City. Hobson City had a population of 770 in 1960; today it is thought to have double that population. County Training has served the black students not only of Hobson City but also of Oxford and other areas. Oxford Elementary School and Oxford High School, located on a common site, have served whites from Oxford and outlying areas. County Training and the Oxford schools are 1.6 miles apart by road.

Because of the school district's rural character and the board's previous maintenance of a segregated school system, the county has provided extensive

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[3]There were more Negroes in all-black schools last year than under the court's order for this coming year. This is because some of the black students at Calhoun County Training last year were assigned to other schools under the board's zoning plan.

school bus transportation for students. Of the almost 13,000 students in the county system 10,000 or 77.6 percent were bussed to school in 1969-70. Approximately the same percentage of students were bussed to the Oxford schools as in the system as a whole. Some of these students were picked up within the city boundaries.

Past de jure segregation and residential patterns have shaped the context of this case. In 1899 Hobson City, which had been part of Oxford, was separately incorporated after the area's black residents were gerrymandered out of Oxford, according to undisputed testimony in the record. Custom continued the residential segregation: Hobson City has remained all-black and in Oxford blacks (five percent of the population) live only in the section closest to the Oxford-Hobson border.

Oxford had an independent school system until 1932 when its schools became part of the county system. During this past school year, while the county system was under court order to submit plans for county-wide desegregation, Oxford established a city school system under a City Board of Education. This board requested the Calhoun County Board to transfer control of the two Oxford schools to the new board. The takeover became effective July 1, 1970. The city school board has urged that its status as an independent entity is relevant to desegregation proposals.

The other all-black school, Thankful School, is to the north of County Training. Thankful served 278 black

children in grades 1-6 in the 1969-70 school year. Thankful is approximately one mile from Mechanicsville School, which has been serving 595 white children. During the 1969-70 school year, 510 of these were bussed to school. There are several other formerly all-white county elementary schools within a radius of about three miles of Thankful.

The issues in this case can best be considered by describing the plans submitted to the three-judge court by the various parties.

Under orders of the Court, the Calhoun County Board of Education, January 12, 1970, submitted a plan proposing the closing of the two black schools,[4] County Training and Thankful, and distributing the students from these schools among a number of the other county schools.[5] The Oxford schools would have received

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[4] The county had previously closed several black schools and assigned the pupils to formerly white schools. This included the closing of grades 7-9 at Thankful.

[5] The projection for the effect of the county's plan is as follows:

School	Capacity	Gr.	Projected Enrollment W	N	T	Formerly W or N Schools	
Calhoun Co. Training	1020		(closed)			N	
Thankful	450		(closed)			N	
Blue Mountain	180	1-6	151	29	180		W
Eulation	390-420	1-6	400	20	420		W
Mechanicsville	720	1-6	590	130	720		W
Saks El.	870-1010	1-6	950	62	1012		W
Saks High	1200	7-12	980	126	1106		W
Oxford El.	810-1035	1-6	820	250	1070		W
Oxford High	1840-1860*	7-12	1375	220	1595		W
Welborn	1380	7-12	1200	200	1400		W

*"On extended day school schedule"

a number of the black students from County Training. The Oxford Board of Education, which asserts its separate identity with respect to sending its students to County Training, concurred in the plan. The school closing plan would result in an extended day-school schedule at Oxford High to house 1595 pupils in grades 7 to 12. While the plan indicated a capacity of 1840-1860 at Oxford High based upon the extended day scheduling, the Building Information Form for that school for the 1969-70 school year, stated that the maximum capacity was 1230. The plan would assign 1070 children to Oxford Elementary, with a regular capacity of 810, 1035 including 7 portable and 2 temporary rooms.

The plaintiffs and the United States objected to closing Calhoun County and Thankful on the ground that it was racially motivated and would impose an unconstitutional burden on the Negroes. The conclusion that the proposed closing was racially motivated was based on the fact that the facilities to be closed were physically adequate and that the county board's justifications included the argument that whites would resist going to school in facilities formerly used by blacks. As an alternative, the plaintiffs and plaintiff-intervenors suggested various pairing plans that would link County Training with the Oxford Elementary and High Schools, and link Thankful School with Mechanicsville School.[6] On February 10, 1970, the court ordered the

[6]Several pairing proposals were put forward. For County Training and the Oxford schools, the plaintiffs at one point proposed, without attendance projections, the following division: Oxford Elementary 1-5; County Training 6-9, Oxford High 10-12. The

system to show cause why this alternative should not be implemented, noting that "[t]he school system's plan appears to impose an unnecessary burden on the children of both races solely to avoid assigning white students to a formerly black school. The imposition of such a burden, when based on racial factors, violates the Fourteenth Amendment."

According to the county superintendent of schools, the Thankful School, built in 1953, is "in good condition," has a "good" site and its "landscaping is fine". The Mechanicsville School, which would absorb more than 100 students if Thankful were closed, is located about one mile from Thankful. Its site is not as attractive as the one at Thankful. A portion of the Calhoun

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plaintiffs later put forward the following pairing plan with projections:

	Grades	*White*	*Negro*	*Total*	*Capacity*
Oxford Elementary	1-4	575	175	750	810
Oxford High	5-9	860	249	1109	1230
County Training	10-12	694	233	927	1020

Additionally, the United States proposed the following pairing suggestion for these

		Enrollment		
School	*Gr.*	*W*	*N*	*T*
County Training	1-4	575	175	750
Oxford El.	5-8	625	175	800
Oxford High	9-12	1050	150	1200

There is some dispute as to the capacity of County Training. County records, before the issue of pairing was raised, showed it as 1020; countering the pairing proposals the county urged that in fact the capacity was only 750.

As to the pairing of Thankful and Mechanicsville, no grade structure was proposed by the parties. The following figures were presented:

	Capacity	*Wh.*	*N.*	*Total*
Mechanicsville	720			
Thankful	360	610	260	870

Appendix A

County Training School was built in 1945 and the remainder in the 1950's and 1960's. It might cost a million dollars to build a structure like Calhoun County Training at present. The system does not presently have available money for new construction. The court stated in the terminal order of June 12, 1970, that County Training had "an excellent physical plant. ..."

The County System gave three reasons for opposing the pairing. (1) Whites would flee from the public schools.[7] (2) It would be expensive to convert the Training School to an elementary school. (3) Hobson City's two percent license tax, covering teachers, would make it difficult to acquire suitable teachers. The Oxford system opposed the pairing for a number of reasons. (1) It agreed with the county board that whites would flee the public schools.[8] (2) Hobson City is a separate town with its own government. (3) The

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[7] The board stated: "These Defendants believe, and, if given an opportunity to do so, will undertake to present oral testimony to show that if the Court adopts the proposed modification it will bring about extensive efforts to operate private school systems to accommodate any white students who might be assigned to the facilities now housing Calhoun County Training School. It would further be likely to bring about extensive relocation of families in an effort to avoid such assignment. Adoption of the proposed alternative is certain to ... create avoidable new problems".

[8] The defendants strongly urge to the court that the closing of the Oxford Elementary School would not effect a racial balance and would do more toward resegregating the races according to color than ever before; that the parents of children living in Oxford would not send their young children unescorted into an all colored municipality; that private schools have been established and are being established in Oxford and Anniston and their enrollments for the next school year have already reached their capacity.

Oxford System would not have elementary grades, thereby making it difficult to attract industry. (4) Pairing would require bussing; some students live 3 or 4 miles from County Training; the Oxford system did not intend to operate buses.

The county board then proposed a new plan that would keep both County Training and Thankful open for grades 1-6. Under this plan, student assignments would be based on geographic attendance zones. Since the zone boundaries followed historic neighborhood boundaries, their projected effect was to make County Training all-black and Thankful virtually so.[9] Children in grades 7 to 12 formerly attending these schools would be distributed to the formerly white schools according to the original county proposal.

After a hearing the district court entered a single order for the Calhoun County and Oxford systems accepting the county board's plan except for an amendment providing that the board operate County Training for grades 1 to 12 instead of 1 to 6. The order stated that "the evidence ... reflects that [County Training]

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[9]The figures for the county board's revised plan are as follows:

		Enrollment		
	Gr.	W	N	Capacity
Thankful	1-6	20	230	360
Mechanicsville	1-6	590	30	720
Blue Mountain	1-6	175	5	180
Saks El.	1-6	950	5	1012
Eulation	1-6	390	6	420
Oxford El.	1-7	960	95	1070
County Training	1-6	---	250	750

Children 7-12 grades in the Thankful zone would attend Saks and Wellborn High schools, and those in the County Training zone would attend Oxford High.

is an excellent physical plant". The effect of the order is to continue the school's all-black character serving grades 1 to 12 and to deprive approximately 200 black students of the integration provided by the county plan.[10] Under the plan, approximately 45 percent of the black students in the system will be assigned to Thankful and County Training, 29.4 percent to all-black County Training for their entire school careers.

II.

The first issue we discuss is whether Oxford's secession from the Calhoun County school system requires that its schools be treated as an independent system. Oxford asserts its freedom to keep its pupils in schools within the city limits; the board had no objection to receiving black students in its schools from outside the city, as was proposed by the county in its original plan. But the city's claim to be treated as a separate system has little merit. In its power as a court of equity overseeing within this Circuit the implementation of *Brown v. Board of Education*, 1955, 349 U.S. 294, 300, this Court must overcome "a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in (Brown I)." *Brown II, supra.*

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[10] Figures are not available on the exact number of students that County Training would have under the plan. The Oxford board has submitted information showing that under the plan it would have only 157 Negro students out of an enrollment of 2441 in grade 1-12.

Appendix A

For purposes of relief, the district court treated the Calhoun County and Oxford City systems as one. We hold that the district court's approach was fully within its judicial discretion and was the proper way to handle the problem raised by Oxford's reinstitution of a separate city school system. The City's action removing its schools from the county system took place while the city schools, through the county board, were under court order to establish a unitary school system. The city cannot secede from the county where the effect — to say nothing of the purpose — of the secession has a substantial adverse effect on desegregation of the county school district. If this were legally permissible, there could be incorporated towns for every white neighborhood in every city. See *Burleson v. Jackson County Board of Election Commissioners*, E.D. Ark. 1970, 308 F. Supp. 352 (proposed re-establishment of a discontinued district); *Wright v. Greenville County Board*, E.D. Va. 1970, 309 F. Supp. 671; *United States v. Halifax County Board of Education*, E.D.N.C., May 23, 1970, C.A. No. 1128; *Turner v. Warren County Board of Education*, E.D.N.C., May 23, 1970, C.A. No. 1482-RE. Even historically separate school districts, where shown to be created as part of a state-wide dual school system or to have cooperated together in the maintenance of such a system, have been treated as one for purposes of desegregation. See *Haney v. County Board of Education of Sevier County*, 8 Cir. 1970, 410 F.2d 920; *United States v. Crockett County Board of Education*, W.D. Tenn. May 15, 1967, C.A. 1663.

School district lines within a state are matters of political convenience. It is unnecessary to decide

whether long-established and racially untainted boundaries may be disregarded in dismantling school segregation. *New* boundaries cannot be drawn where they would result in less desegregation when formerly the lack of a boundary was instrumental in promoting segregation. *Cf. Henry v. Clarksdale Municipal Separate School District*, 5 Cir. 1969, 409 F.2d 683, 688, n. 10.

Oxford in the past sent its black students to County Training. It cannot by drawing new boundaries dissociate itself from that school or the county system. The Oxford schools, under the court-adopted plan, supported by the city, would serve an area beyond the city limit of Oxford. Thus, the schools of Oxford would continue to be an integral part of the county school system. The students and schools of Oxford, therefore, must be considered for the purpose of this case as a part of the Calhoun County school system.

III.

The second question is whether the plan approved by the district court is sufficient to satisfy the school board's affirmative duty to disestablish the dual system. A geographical zoning plan for student assignments will sometimes satisfy this duty, depending on its practical effects and the feasible alternatives. But it will not satisfy the board's duty to dismantle the dual system when it does not work. *Henry v. Clarksdale Municipal Separate School District.* To be satisfactory, a zoning plan must effectively achieve desegregation. When historic residential segregation creates housing patterns that militate against desegregation

based on zoning, alternative methods must be explored, including pairing of schools. *See Green v. County School Board*, 1968, 391 U.S. 430, 442, n. 6. *Swann v. Charlotte-Mecklenburg Board of Education*, 1971, U.S. , 91 S.Ct. 1267, 28 L.Ed.2d 554.

An analysis of the plan adopted by the district court shows that it does not satisfy the board's obligation to desegregate. While the plan does put some black students in formerly all white schools, it leaves over 45 percent of the district's Negro students in all-black or virtually all-black schools. This continued segregation results from extensive residential segregation and boundary drawing to retain "the comfortable security of the old, established discriminatory pattern." *Monroe v. Board of Commissioners of Jackson*, 1968, 391 U.S. 20. For instance, the zone boundaries adopt the dividing line between Oxford and Hobson, a boundary tainted by racial gerrymandering.

The appellees contend with respect to County Training that Hobson takes pride in its school and wants it to continue as it has been. Although this seems a misinterpretation of the testimony of Mayor Striplin of Hobson,[11] even if it were accurate it would not sup-

[11] Mayor Striplin seemed from the record to be saying only that if the schools were not to be paired the black community would prefer to have the facility used by 12 grades than have it partially abandoned. But there was other language that would support an interpretation that the community desired to have a twelve grade all-black school. In a letter dated January 7, 1970, addressed to the Director of the Health, Education, and Welfare Department, Mayor Striplin wrote, in part:

> "it would bring hardship to this 1,500 populated community to be without a school. We are not trying to

port a defective plan. The district court should require the School Board forthwith to constitute and implement a student assignment plan that complies with the principles established in *Swann v. Charlotte-Mecklenburg Board of Education.*

IV.

The county board's original plan proposed to close the formerly black schools and disperse the students among formerly white schools. Although this plan would bring about student body desegregation, plaintiffs objected that the plan was unconstitutional because the closing of the two schools was racially motivated and placed an unequal burden on Negro students.

Closing schools for racial reasons would be unconstitutional. The equal protection clause of the fourteenth amendment prevents any invidious discrimination on the basis of race. *Yick Wo v. Hopkins,* 1886, 118 U.S. 356. A governmental unit bears a "very heavy burden of justification" to support any use of racial distinctions. *Loving v. Virginia,* 1967, 388 U.S. 1, 9. Under general equal protection doctrine, therefore, it would be impermissible for the school board to close formerly black schools for racial reasons. More particularly, such action is prohibited by the school desegregation

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buck the guide lines, we are only asking you to spare our school in some way. ¶ We have Whites living all around us. Some in walking distance, some on the bus lines, can they be brought in? They are welcome. . . ."

cases. *Brown II, supra,* calling for "a racially nondiscriminatory school system," and its progeny require not only that past discriminatory practices be overcome by affirmative actions but also that new forms of discrimination not be set up in their place. Closing formerly black school facilities for racial reasons would be such a prohibited form of discrimination. "Such a plan places the burden of desegregation upon one racial group."[12] *Brice v. Landis,* N.D. Cal. 1969, 314 F. Supp. 947. See *Quarles v. Oxford Municipal Separate School District,* N.D. Miss., January 7, 1970, C.A. W.C. 6962-K.

We are frankly told in the County Board's brief that without this action it is apprehended that white students will flee the school system altogether. "But it should go without saying that the vitality of these constitutional principles canot be allowed to yield simply because of disagreement with them." *Brown II,* at 300. See *Monroe v. Board of Commissioners of Jackson,* at 459.

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[12]In Brice v. Landis, N.D. Cal., August 8, 1969, No. 51805, the court discussed the discriminatory closing of formerly black schools:

> "The minority children are placed in the position of what may be described as second-class pupils. White pupils, realizing that they are permitted to attend their own neighborhood schools as usual, may come to regard themselves as 'natives' and to resent the negro children bussed into the white schools every school day as intruding 'foreigners.' It is in this respect that such a plan, when not reasonably required under the circumstances, becomes substantially discriminating in itself. This undesirable result will not be nearly so likely if the white children themselves realize that some of their number are also required to play the same role at negro neighborhood schools."

Appendix A

In *Gordon v. Jefferson Davis Parish School Board*, 5 Cir. July , 1971, F.2d [No. 30,075], this Court, relying on *Quarles, Brice, and Haney v. County Board of Education of Sevier County*, 8 Cir. 1970, 429 F.2d 364, recently remanded the case to the district court with directions that the court "promptly conduct hearings, and thereon makes findings and conclusions as to whether or not the closing [of two schools] was in fact racially motivated". Here, however, it is clear from the record and briefs that the primary reason for closing the schools was the county board's conclusion that the use of the black facilities would lead whites to withdraw from the public system. And there is little evidence of any legitimate reasons for the closings. Although arguing below that the black facilities were inferior, appellees asserted on appeal that the facilities of County Training "are excellent." Also, the district court found County Training to have an "excellent physical plant" in assigning twelve grades of black students there. Thus the action is not supported by the inferiority of the physical facilities. Moreover, the county's plan would have required an extended day at Oxford High because of the crowding caused by closing County Training. On the record before us, the county's original proposal is unacceptable.

V.

In contrast to the defects of the plan adopted by the court and the county's original plan to close County Training and Thankful Schools, the school system seems suitable for pairing several schools to achieve desegregation. County Training and the Oxford Ele-

mentary and High School complex are only 1.6 miles apart by road. Thankful and Mechanicsville are only one mile apart. These figures compare favorably with distances between elementary schools this court has ordered paired in the past. *See, e.g., Bradley v. Public Instruction of Pinellas County*, 5 Cir. July 28, 1970 (elementary schools one and two miles apart paired).

In addition, a great number of the students attending these schools in the past have been transported to school by the county school bus system. In its original proposal the county planned to provide the necessary transportation for the black students to be dispersed to the formerly white schools, demonstrating the ability of the county to use its transportation system to accomplish desegregation. The bussing necessary to handle the pairing might involve a moderate increase over that provided by the County in the past. Where transportation facilities exist, a requirement of a moderate increase in transportation is a proper tool in the elimination of the dual system. *Tillman, Jr. v. Volusia County*, 5 Cir. July 21, 1970, F.2d [No. , July 21, 1970].

The appellees overstate the case as to the alleged difficulties in pairing. The first assertion is that physical barriers exist between County Training and the Oxford School complex, i.e. railroad tracks and highways. But a view of the maps of Oxford and Hobson show that these barriers not only separate the two schools but also separate a large number of white students from the Oxford school complex. The result is that some white students live on the County Training

side of the tracks and highways, and therefore crossed these to attend the Oxford schools. Barriers that in the past have yielded to segregation should not now prevent pairing to achieve integration. Also, the difficulty of physical barriers is decreased by the availability of transportation.

The appellees also assert that the road that school busses must use in traveling to County Training is unsafe for such buses. Considering that this road has been used by school busses going to County Training in the past in order to maintain segregation, such difficulties cannot now be found insurmountable.

The City of Oxford argues that pairing cannot proceed on the assumption that pupils will be transported. In the past it has been the practice of the county school system not to transport children living within a separate municipal school district to schools run by the municipality. But application of the rule to the situation involved here is predicated on the idea that Oxford has become a separate school district. Since we have concluded that for purposes of this case the Oxford schools should not be considered a separate entity, the county must continue to treat Oxford as an integral part of the county system for purposes of providing school bus transportation. Last school year the county did provide transportation to Oxford Elementary and High Schools for some students living within the Oxford city limits. The county board must now reconstitute its transportation system to provide transportation necessary for the pairing ordered by this decision. *Singleton v. Jackson Municipal Separate School Dis-*

trict, 5 Cir. 1969, 419 F.2d 1211, 1217, n. 1 (en banc), *rev'd other grounds, sub nom. Carter v. West Feliciana Parish School Board*, 1970, 396 U.S. 290, 90 S.Ct. 24 L.Ed.2d 477.

The appellees also argue that none of the pairing proposals suggested by the plaintiffs are practicable because the capacity of County Training is too small to accommodate the number of pupils that would be assigned to it under them. We note that until the question of pairing arose the official records of the county system showed County Training's capacity to be 1020, as opposed to the 750 now said to be its capacity. Even if the capacity is 750, pairing is feasible. See the proposal by the United States, note 6 *supra*.

We do not prescribe the grade structure to be used in pairing these two sets of schools. The county system (including the Oxford City board), after consulting with the plaintiffs and the plaintiff-intervenors, should assign grades to these schools for the 1970-71 school year, using each school to the same fraction of its capacity as far as practical.

The judgment of the district court as it relates to student assignment is vacated and the cause is remanded with directions that the district court require the School Board forwith to institute and implement a student assignment plan that complies with the principles established in *Swann v. Charlotte-Mecklenburg Board of Education* and reflects any changes in conditions relating to school desegregation in Calhoun County since the Court's decree of June 12, 1970.

Appendix A

The district court shall require the School Board to file semi-annual reports during the school year similar to those required in *United States v. Hinds County School Board*, 5 Cir. 1970, 433 F.2d 611, 618-19.[13]

VACATED AND REMANDED WITH DIRECTIONS. The Clerk is directed to issue the mandate forthwith.

COLEMAN, Circuit Judge, concurring in part and dissenting in part.

I regret that I cannot fully agree with the majority opinion in this case. Of course, I agree that all reasonable means must be exercised to dismantle dual school systems and to establish unitary ones. My disagreements, now and in the past, have been founded upon my opposition to unrealistic plans, doomed to failure from the beginning, whereas a discretionary approach by the District Judge would more likely have been crowned with better results, rather than destroying public schools, so badly needed by white and black alike.

Admittedly the problem in Calhoun County, Alabama, is not acute. There appears to be no real obstacle to the speedy accomplishment of a unitary school system in this area.

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[13]This decision is based on a state record, in part because this Court (en banc) determined to withhold all decisions in school desegregation cases pending the Supreme Court's issuance of its judgment in Swann v. Charlotte-Mecklenburg.

Appendix A

I agree that school systems *in the process of desegregation* may not escape their obligations by changing their operational status, as Oxford has attempted to do.

From such knowledge of history as I have I am not convinced, that the incorporation of Hobson City in 1899, when *Plessy v. Ferguson* was on the books, had any racial connotations, unless it may have been that the black citizens desired a municipality of their own, as, for instance, Mound Bayou, Mississippi.

For the reasons stated in my dissenting opinion in *Marcus Gordon v. Jefferson Davis School Board* [No. 30,075, slip opinion dated _____, 1971] ___ F.2d ___, I disagree with Part IV of the majority opinion. As I said there, race is, of necessity, at the bottom of all school desegregation orders; otherwise there would be no Fourteenth Amendment jurisdiction. I shall not repeat here that which I have already put of record in *Gordon*. I simply adhere to the point.

I shall only add a reference to what the Supreme Court said in *Swann v. Charlotte-Mecklenburg Board of Education:*

> "Just as the race of the students must be considered in determining whether a violation has occurred, so also must race be considered in formulating a remedy". [39 U.S.L.W. at 4449].

Appendix B

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

No. 29886*
No. 30387

LINDA STOUT, by her father and next friend, BLEVIN STOUT,
Plaintiff-Appellant,
UNITED STATES OF AMERICA,
Plaintiff-Intervenor,
versus
JEFFERSON COUNTY BOARD OF EDUCATION, ET AL.,
Defendants-Appellees,
BOARD OF EDUCATION FOR THE CITY OF PLEASANT GROVE,
Defendant-Intervenor.

Appeals from the United States District Court for the Northern District of Alabama

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(July 16, 1971)

Before THORNBERRY, CLARK and INGRAHAM, Circuit Judges.

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*No. 29886 is included in this order because of the inter-relation of the issues raised therein and in order that the district court on remand will have the opportunity to assure compliance with the uniform provisions relating to faculty and other staff

Appendix B

BY THE COURT: The order of the district court under review is vacated and the cause is remanded with direction that the district court require the school board[1] forthwith to implement a student assignment plan for the 1971-72 school term which complies with the principles established in *Swann v. Charlotte-Mecklenburg Board of Education*, ___ U.S. ___, 91 S.Ct. 1267, 28 L.Ed.2d 554 (1971), insofar as it relates to the issues in this case, and which encompasses the entire Jefferson County School District as it stood at the time of the original filing of this desegregation suit.

In *North Carolina State Board of Education v. Swann*, ___ U.S. ___, 28 L.Ed. 2d 588, 589 (1971), the Supreme Court said:

> "... [I]f a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct the operation of a unitary school system or impede the disestablishing of a dual school system, it must fall; state policy must give way when it operates to hinder vindication of federal constitutional guarantees."

Likewise, where the formulation of splinter school districts, albeit validly created under state law, have the

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in *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211; Id. 425 F.2d 1211.

[1]The district court shall include within its order a direction to any school boards created since the filing of the original action in this cause to submit to the plan to be approved by the district court.

effect[2] of thwarting the implementation of a unitary school system, the district court may not, consistent with the teachings of *Swann v. Charlotte-Mecklenburg, supra*, recognize their creation.[3]

The district court is also directed to implement fully the uniform provisions of our decision in *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211; Id. 425 F.2d 1211, insofar as said uniform provisions relate to desegregation of faculty and other staff, majority to minority transfer policy, transportation, school construction and site selection, and attendance outside system of residence. See also *Carter v. West Feliciana Parish School Board*, 432 F.2d 875 (5th Cir., 1970).

The district court shall require the school board to file semi-annual reports during the school year similar to those required in *United States v. Hinds County School Board*, 433 F.2d 611, 618-19 (5th Cir., 1970).

The mandate shall issue forthwith.

VACATED and REMANDED with directions.

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[2]The process of desegregation shall not be swayed by innocent action which results in prolonging an unconstitutional dual school system. The existence of unconstitutional discrimination is not to be determined solely by intent. *Cooper v. Aaron*, 358 U.S. 1 (1958); *Bush v. Orleans Parish School Board*, 190 F.Supp. 861 (E.D. La., 1960); *aff'd sub nom, City of New Orleans v. Bush*, 333 U.S. 212 (1961); *United States v. Texas*, ____ F.Supp. ____, Part II (E.D.Tex., 1971); aff'd as modified, *United States v. Texas*, ____ F.2d ____ (5th Cir., No. 71-1061, July 9, 1971).

[3]See, *Lee, et al., v. Macon County Board of Education*, ____ F.2d ____ (5th Cir., 1971) [No. 30154, June 29, 1971, Part II].

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Appendix C

SUPREME COURT OF NEW JERSEY

No. A-117—September Term 1970

BEATRICE M. JENKINS, *et al.*,

Petitioners-Appellants,

v.

THE TOWNSHIP OF MORRIS SCHOOL DISTRICT and BOARD OF EDUCATION,

Defendant-Respondent,

and

THE TOWN OF MORRISTOWN SCHOOL and BOARD OF EDUCATION,

Defendant and Cross-Petitioner-Appellant,

and

THE BOROUGH OF MORRIS PLAINS BOARD OF EDUCATION,

Defendant.

Argued April 6 and 26, 1971. Decided June 25, 1971.
On certification to the Appellate Division.

Mr. Frank F. Harding and *Mr. Stephen B. Wiley* argued the cause for the appellants (*Messrs. MacKenzie & Harding*, attorneys for the appellants Beatrice M. Jenkins, et al.; *Mr. Stephen B. Wiley*, attorney for the appellant Morristown Board of Education; *Mr. Donald M. Malehorn* and *Mr. Frank F. Harding*, on the brief).

Appendix C

Mr. Victor H. Miles argued the cause for the respondent.

Mr. Paul Bangiola argued the cause for the defendant Borough of Morris Plains Board of Education.

The opinion of the Court was delivered by JACOBS, J.

The appellants sought to have the Commissioner of Education take suitable steps towards preventing Morris Township from withdrawing its students from Morristown High School and towards effectuating a merger of the Morris Township and Morristown school systems. The Commissioner was of the opinion that, even though such steps were highly desirable from an educational standpoint and to avoid racial imbalance, he lacked legal authority to take them and accordingly he dismissed the individual appellants' petition and the appellant Morristown's cross-petition. The appellants filed notice of appeal to the Appellate Division and we certified before argument there. 58 *N.J.* 1 (1971).

Prior to 1865 Morristown and Morris Township were a single municipal unit. In that year Morristown received permission to incorporate as a separate entity and arbitrary boundary lines were drawn between the Township (Morris) and the Town (Morristown). Despite their official separation, the Town and the Township have remained so interrelated that they may realistically be viewed as a single community, probably a unique one in our State. The Town is a compact urban municipality of 2.9 square miles and is completely encircled by the Township of 15.7 square miles. The boundary lines between the Town and the Township do not adhere to any natural or physical features but cut indiscriminately across streets and neighborhoods. All of the main roads radiate into the Township from the Green located in the center of the Town and it is impracticable to

go from most Township areas to other Township areas without going through the Town itself.

The Town is the social and commercial center of the community whereas the Township is primarily residential with considerable undeveloped area for further residential development. The Town has many retail stores and other commercial establishments surrounding its Green while the Township has only a few retail outlets located on its main roads. The Township has no business center or so-called "downtown" area but the Town's substantial shopping center serves in that aspect for both the Township and the Town. Most of the associations, clubs, social services and welfare organizations serving the residents of both the Town and the Township are located within the Town and, as members of the aforementioned organizations, the Town and Township residents are routinely together at both work and play. The Morristown Green is a common meeting place for young people from both the Town and the Township; day care centers and park and playground facilities in the Town are used by the residents of both the Town and the Township; and little leagues and the like generally involve Town and Township teammates who play on both Town and Township fields.

There is also considerable interdependency in municipal public services. Thus the Town's Water Department supplies water to most of the Township residents; sewer service is rendered by the Town to some parts of the Township; Town and Township Fire and Police Departments regularly assist each other; and the Town and Township jointly operate the Public Library located within the Town. There are socio-economic and population differences between the Town and the Township but despite these differences the record before us clearly establishes that, as set

forth in the Candeub report, the Town and Township "are integrally and uniquely related to one another" and "constitute a single community." The Candeub report was prepared for the Town by an established consulting community planning firm. The hearing examiner, whose findings were adopted and incorporated by the Commissioner of Education in his decision, found that the Morristown-Morris community was essentially as described in the Candeub report; he noted further that the Township did "not dispute the interrelatedness between itself and the Town" though it contended that statutorily and technically the Town and Township are "separate entities for school purposes."

The Township has a population of about 20,000 including less than 5% blacks. The Town has a population of almost 18,000 including about 25% blacks. There was testimony that within this decade the Town's population of blacks would probably increase to between 44% and 48%. Because of employment considerations and other economic factors, black families generally locate in the Town rather than the Township. Town sales of single family homes average between $22,000 and $24,000 whereas the homes in the Township average between $40,000 and $60,000. Though the Town's school population is leveling off, its black school population is increasing steadily. As of 1969 when the hearings were held below, the Town's school enrollment was 2,823 and is not expected to exceed 3,200 by 1980 though its black school population is expected to increase from 39% to over 65% by that time. Its elementary schools are 43% black but are expected to be 70% black by 1980. On the other hand, the Township's public school enrollment of 4,172 will probably reach 6,700 by 1980 and is expected to remain overwhelmingly white. About 5% of the Township students are black and there was testimony that this percentage is likely to decrease rather than increase by 1980.

Appendix C

Most of the Town and Township schools are located near the Town boundary line and the hearing examiner made pointed references and findings to their gross disparities in racial composition. Thus he noted that the Town's Thomas Jefferson School with its 48% black enrollment was "very close to the Township's Woodland School with zero percent black enrollment"; that "geographic proximity" also invited attention to George Washington School (Town, 45%) and Normandy Park School (Township, 9%) and to Lafayette Junior High School (Town, 42%) and Alfred Vail School (Township, 10%); and he pointed out that the Alexander Hamilton School (Town, 35%) was "equidistant" between Sussex Avenue School (Township, 5%) and Hillcrest School (Township, less than 1%).

So far as Morristown High School is concerned, the present black student population is about 14%. But its student body now includes residents of Morris Township and the neighboring municipalities, Borough of Morris Plains and Harding Township. The projections introduced by the Town indicate that if the Morris Township students are withdrawn, the percentage of blacks in Morristown High School will double immediately, and will probably reach 35% by 1980; they indicate further that if the Morris Plains and Harding students are also withdrawn the black enrollment at Morristown High School will probably reach 56% by 1980. The hearing examiner accepted the Town's projections since they appeared to him "essentially reasonable" and no "real projections in contradiction" had been offered.

For over a hundred years the Town and Township have had a sending-receiving relationship under which the Township sends Township students to Morristown High School. There was a short interruption which continued only

through 1958 and 1959. As of 1962 the Town and Township executed a formal 10-year sending-receiving contract and the Township has since been regularly sending its 10th, 11th, and 12th grade students to Morristown High School. The contract contains a provision to the effect that after the ten-year term the parties shall be free to make whatever arrangements they mutually agree u[illegible] 'subject to the provisions of law and the approval of [illegible]ommissioner of Education." Incidentally, the residents of Morris Plains and Harding now at Morristown High School include grade 9 through 12 students who attend under designation without formal contract.*

Morristown High School is an excellent educational institution and offers diversified and comprehensive courses of instruction including seven full vocational programs and an equal number of advanced college placement courses in English, social studies, science and language. It has a total of 150 courses in contrast to the State median of 80-89 courses. It operates with an eight-period day, staggering arrival and departure times. It accommodates 1950 students and by using a nine-period day can accommodate 2450 students; it is anticipated that the High School population will not reach this latter figure until 1974. If the Township is permitted to withdraw its students, Morristown High School will have remaining about 1300 students as of 1974 and if,

* Harding Township was originally a party to the proceedings but was permitted to withdraw by consent. Before the Commissioner, the Borough of Morris Plains sought a regionalization of schools at the high school level and joined in the request to prevent the withdrawal of Morris Township students from Morristown High School. The Borough took no appeal from the Commissioner's determination and before us its counsel simply filed a statement in lieu of brief which joined in the relief sought by the appellants "except that his demands for regionalization would be that of a limited public regional high school for grades nine through twelve."

in addition, Morris Plains and Harding are permitted to change their designation, the High School will then have only about 800 students. The hearing examiner found that "to be left with only Harding and Morris Plains—and especially to be left alone—would impose the following disadvantages:

"1. By dint of reduced size alone Morristown High School could not continue to provide the same scope and variety of courses.

2. Withdrawal of Township students would mean withdrawal of a significant number of educationally highly-motivated, capable students, and this is likely to have an adverse affect upon the performance and motivation of the remaining Town students.

3. The remaining students would be, as a group, from lower socio-economic backgrounds and be less oriented toward academic achievement, with the result that the program structure will have to be drastically re-oriented.

4. The percentage of black students in the High School will be approximately as stated above: with Harding and Morris Plains, 27% in 1974 and 35% in 1980; without Harding and Morris Plains, 44% in 1974 and 56% in 1980.

5. Morristown High School will not be able to maintain its place in the scale of excellence in terms of breadth and quality of program.

6. It is probable that, as a consequence, it will have more difficulty in keeping and attracting the same high quality faculty.

7. With the change in program and reputation and the loss in tuition revenue, it is possible that the Town will not be as able or as willing to support financially its school system as it currently is.

8. The Township students will be denied the privilege of an integrated education.

9. The sudden alteration in the racial composition of the High School might aggravate the tendency of potential white buyers to avoid purchasing houses in Morristown."

On the issue of total K-12 merger between the Town and Township, the examiner received considerable testimony during the hearings before him. In the main it most persuasively supported the high educational desirability and economic feasibility of such a merger. The examiner, after pointing to the sharp contrast between the Town's K-12 black enrollment of 39% (projected to over 65% by 1980) and the Township's white enrollment of 95%, stressed that "the close proximity of the Town and Township elementary schools makes the disparity easily visible to and easily felt by the students of the two districts" and that "the community with which Morristown residents, including students, identify extends beyond the bounds of the Town and encompasses the Township." He firmly set forth his view that if there is a failure to merge "the black student population of Morristown—particularly at the elementary school level—will suffer the same harmful effects that the Commissioner of Education has worked so hard to eliminate within single school districts throughout the State." And though he did not deal with it in explicit terms there is little doubt that he subscribed to the Town's testimony as to the advantages of total merger, set forth as follows in the report

Appendix C

submitted to the Town by the Engelhardt educational consulting firm and introduced in evidence at the hearings below:

"The advantages to both Morristown and to Morris Township of a K-12 merger may be summarized this way:

1. Establishment of a racial balance which represents the racial composition of the community. Bi-racial experience will be available in the early grades where it has important benefits for both white and Negro students in terms of interracial attitudes and preferences and at the later years where it appears to have important benefits to members of minority groups.
2. Representation of the socio-economic spectrum of the community at all levels of schooling.
3. Equal educational opportunity available to all students without regard to background, race, or residence.
4. Avoidance of invidious comparison between the Morristown High School and a Township school, a comparison ultimately based on race.
5. Avoidance of the deterioration and pejoration of Morristown High School because of racial concentration, loss of reputation, curtailment of program, and ultimate reduction in per-pupil expenditure.
6. Development of a district which represents a natural community and avoidance of the creation and perpetuation of racial imbalance.

7. Development of a climate of education which represents the society in which the students live.
8. Development of a school district and a high school large enough to allow the maximum return on the funds invested and to permit a program broad enough to meet a wide range of pupil needs.
9. Development of an educational pattern related to and serving the single Morristown-Township community.
10. Reduction in the number of school districts in the area from four to three.
11. Development of greater vertical coordination of program and greater flexibility in facilities, curriculum, and organization."

In January 1968 the Township Board of Education conducted a non-binding referendum among the Morris Township residents. The voters were asked whether they favored a separate K-12 school system for Morris Township or a K-12 merger with Morristown. The vote was 2164 to 1899 in favor of a separate K-12 system. The examiner found that prior to the vote six of the eight members of the Township Board of Education had been on record in favor of some sort of merger; that Board members agreed beforehand to be bound by the results of the referendum; that since the referendum the Board has conducted itself as if the decision were irrevocably made to have a separate school system including a separate high school; and that the Board declined to participate "in a study of regionalization with the other school districts upon the invitation of the County

Superintendent of Schools in accordance with the Commissioner's urgent recommendation."

Following the referendum the Township Board of Education set upon a program for the construction of a separate Township high school for Township residents in lieu of the Morristown High School. A bond referendum in connection with the proposed construction was scheduled but was restrained, originally by the Commissioner of Education and later by this Court. In this proceeding the Township Board has pressed for vacation of the restraint and has apparently concentrated all of its efforts towards the building of a new high school in pursuance of the vote at the non-binding referendum. In his decision the Commissioner was highly critical of that referendum and the Board's conduct in connection therewith. Citing *Hackensack Bd. of Education* v. *Hackensack*, 63 *N.J.* Super. 560 (*App. Div.* 1960), and *Botkin* v. *Westwood*, 52 *N.J. Super.* 416 (*App.Div.*), *appeal dismissed*, 28 *N.J.* 218 (1958), he described the non-binding referendum as "illegal and an improper abdication of the Township Board's responsibility to perform its function." And he flatly condemned the pre-vote "pledge of all but one" of the Board members to abide by the results of the non-binding referendum, noting that it "improperly delegates the responsibility for ultimate decision."

The Commissioner was also critical of the Township Board's refusal, since the vote, to consider any alternative to a new high school and its failure to participate in the regionalization study which he had urgently recommended. He expressed his particular concern with "the adverse educational impact of the proposed withdrawal of the Morris Township students from Morristown High School" and with "the long-range harmful effects to the two school sys-

tems" in the light of "the growing racial imbalance between the entire student populations of the Town and the Township." And he further expressed his desire to act, within his powers, "so as to forestall the development of what may be another urban-suburban split between black and white students." But having pointedly made that clear, he then proceeded to determine that he had no power, either to prohibit the withdrawal of Township students from Morristown High School, or to direct any steps on the part of the respective Boards towards merger of their school systems, or to grant any other relief towards avoidance of the baneful effects he so soundly envisions. Accordingly he lifted the restraint he had originally granted and dismissed the petition and cross-petition which had been duly filed by the appellants now before us.

The Commissioner's flat disavowal of power despite the compelling circumstances may be sharply contrasted with the sweep of our pertinent constitutional and statutory provisions and the tenor of our earlier judicial holdings. *See N.J. Const.*, art. 1, para. 5; art. 8, sec. 4, para. 1 (1947); *N.J.S.A.* 18A:4-23, 24; *N.J.S.A.* 18A:6-9; *Bd. of Ed. of Elizabeth* v. *City Coun. of Elizabeth*, 55 *N.J.* 501 (1970); *Bd. of Ed., E. Brunswick Tp.* v. *Tp. Council, E. Brunswick*, 48 *N.J.* 94 (1966); *Booker* v. *Board of Education, Plainfield*, 45 *N.J.* 161 (1965); *Morean* v. *Bd. of Ed. of Montclair*, 42 *N.J.* 237 (1964); *see also In re Masiello*, 25 *N.J.* 590 (1958); *Laba* v. *Newark Board of Education*, 23 *N.J.* 364 (1957); *Schultz* v. *Bd. of Ed. of Teaneck*, 86 *N.J. Super.* 29 (*App.Div.* 1964), *aff'd*, 45 *N.J.* 2 (1965).

Our Constitution contains an explicit mandate for legislative "maintenance and support of a thorough and efficient system of free public schools." Art. 8, sec. 4, para. 1. In fulfillment of the mandate the Legislature has adopted

comprehensive enactments which, *inter alia,* delegate the "general supervision and control of public education" in the State to the State Board of Education in the Department of Education. *N.J.S.A.* 18A:4-10. As the chief executive and administrative officer of the Department, the State Commissioner of Education is vested with broad powers including the "supervision of all schools of the state receiving support or aid from state appropriations" and the enforcement of "all rules prescribed by the state board." *N.J.S.A.* 18A:4-23. The Commissioner is authorized to "inquire into and ascertain the thoroughness and efficiency of operation of any of the schools of the public school system of the state" (*N.J.S.A.* 18A:4-24), is directed to instruct county superintendents and superintendents of schools as to "the performance of their duties, the conduct of the schools and the construction and furnishing of schoolhouses" (*N.J.S.A.* 18A:4-29), and is empowered to hear and determine "all controversies and disputes" arising under the school laws or under the rules of the State Board or the Commissioner. *N.J.S.A.* 18A:6-9.

We have from time to time been called upon to reaffirm the breadth of the Commissioner's powers under the State Constitution and the implementing legislation. Thus in *Laba, supra,* 23 *N.J.* 364, we held that the Commissioner's "primary responsibility is to make certain that the terms and policies of the School Laws are being faithfully effectuated" (23 *N.J.* at 382) and he is empowered to remand controversies and disputes "for further inquiry" at the local board level when such course appears appropriate. 23 *N.J.* at 383. In *Masiello, supra,* 25 *N.J.* 590, we rejected a narrow interpretation by the Commissioner as to his powers on review of determinations by the State Board of Examiners and held that his responsibilities entailed in-

dependent factual findings and independent interpretations of State Board rules. 25 *N.J.* at 606-07.

In *East Brunswick, supra,* 48 *N.J.* 94, the voters twice rejected the Township Board of Education's school budget and the Township Council thereupon cut the budget. The Board filed a petition with the Commissioner of Education and we were asked to decide whether the Commissioner had power to determine the controversy between the Board and the Council and power to order restoration of the cut in the budget. We found that he did, pointing out that since as early as 1846 the Legislature had charged the State Commissioner with the duty of obtaining faithful execution of the school laws and that at no time had his "'comprehensive statutory responsibility" for deciding all controversies or disputes under the school laws or the State Board's regulations ever been "withdrawn or narrowed." 48 *N.J.* at 101. Referring to the constitutional mandate for the maintenance and support of a thorough and efficient school system (art. 8, sec. 4, para. 1), we noted that the Legislature had directed the local school districts to provide "suitable school facilities and accommodations" (*R.S.* 18:11-1; *N.J.S.A.* 18A:33-1, 2) and had vested the State supervisory agencies "with far reaching powers and duties designed to insure that the facilities and accommodations are being provided and that the constitutional mandate is being discharged." 48 *N.J.* at 103-04. We held that where the Commissioner finds that the budget fixed by the local governing body is insufficient to satisfy educational requirements and standards he should direct local corrective action or fix the budget "on his own." 48 *N.J.* at 107. *See also Bd. of Ed. of Elizabeth* v. *City Coun. of Elizabeth, supra,* 55 *N.J.* 501.

The history and vigor of our State's policy in favor of a thorough and efficient public school system are matched

in its policy against racial discrimination and segregation in the public schools. Since 1881 there has been explicit legislation declaring it unlawful to exclude a child from any public school because of his race (*L.* 1881, *c.* 149; *N.J.S.A.* 18A:38-5.1), and indirect as well as direct efforts to circumvent the legislation have been stricken judicially. See *Pierce* v. *Union District School Trustees*, 46 *N.J.L.* 76 (*Sup.Ct.* 1884), *aff'd*, 47 *N.J.L.* 348 (*E. & A.* 1885); *Raison* v. *Bd. of Education, Berkeley*, 103 *N.J.L.* 547 (*Sup.Ct.* 1927); *Patterson* v. *Board of Education*, 11 *N.J. Misc.* 179 (*Sup.Ct.* 1933), *aff'd*, 112 *N.J.L.* 99 (*E. & A.* 1934); *Hedgepeth* v. *Board of Education of Trenton*, 131 *N.J.L.* 153 (*Sup.Ct.* 1944). In 1947 the delegates to the Constitutional Convention took pains to provide, not only in general terms that no person shall be denied any civil right, but also in specific terms that no person shall be segregated in the public schools because of his "religious principles, race, color, ancestry or national origin." Art. 1, para. 5. Implementing legislation now provides that persons shall have the opportunity to obtain "all the accommodations, advantages, facilities, and privileges of any place of public accommodation," including any public school, "without discrimination because of race, creed, color, national origin, ancestry" etc. *N.J.S.A.* 10:5-4, 5(1); see Blumrosen, "Anti-discrimination Laws in Action in New Jersey: A Law-Sociology Study," 19 *Rutgers L.Rev.* 189, 257-258 (1965).

In *Booker* v. *Board of Education, Plainfield, supra*, 45 *N.J.* 161, we sympathetically applied our constitutional and statutory policies towards the elimination of racial segregation or imbalance. Although there was no official policy of segregation there was a concentration of black students in particular schools as the result of what the Commissioner described as " 'a constellation of socio-economic fac-

tors.'" 45 *N.J.* at 166. The Commissioner found that this racial concentration or imbalance was educationally undesirable and upheld a corrective plan which satisfied his then stated requirement for the elimination of schools which were "'completely or almost entirely Negro.'" We held that the Commissioner's requirement was insufficient and that his proper goal was the broader one of "a reasonable plan" for the entire school system "achieving the greatest dispersal consistent with sound educational values and procedures." 45 *N.J.* at 180.

When the Supreme Court in *Brown* v. *Board of Education of Topeka*, 374 *U.S.* 483, 98 *L.Ed.* 873 (1954), struck down segregated schools, it recognized that they generate a feeling of racial inferiority and result in a denial of equal educational opportunities to the Negro children who must attend them. However, as we said in *Booker*, while such feeling and denial may appear in intensified form when segregation represents official policy, "they also appear when segregation in fact, though not official policy, results from long standing housing and economic discrimination and the rigid application of neighborhood school districting." 45 *N.J.* at 168. *Brown* itself did not deal with the latter or *de facto* type of segregation and the very recent Supreme Court decisions in sweeping furtherance of *Brown* may fairly be viewed as confined to situations where there had been *de jure* segregation through dual public school systems. *See Swann* v. *Charlotte Mecklenburg Bd. of Ed.*, —— *U.S.* ——, 28 *L.Ed.2d* 554 (1971); *Davis* v. *Board of School Commrs.*, —— *U.S.* ——, 28 *L.Ed.2d* 577 (1971); *McDaniel* v. *Barresi*, —— *U.S.* ——, 28 *L.Ed.2d* 582 (1971); *North Carolina Bd. of Ed.* v. *Swann*, —— *U.S.* ——, 28 *L.Ed.2d* 586 (1971). But in *Booker* we did cite several lower federal court decisions which had

taken the position that in the circumstances presented to them the continuance of *de facto* segregation in the local public schools would violate the federal constitution. 45 *N.J.* at 169-70. *See United States* v. *Jefferson County Board of Education*, 372 *F.2d* 836, 873-76 (5 *Cir.* 1966), *s.c.*, 380 *F.2d* 385 (5 *Cir.*), *cert. denied*, 389 *U.S.* 840, 19 *L.Ed.2d* 103 (1967); *Hobson* v. *Hansen*, 269 *F.Supp.* 401, 503-511 (*D.D.C.* 1967), *aff'd*, 408 *F.2d* 175 (D.C.Cir. 1969); *cf. Davis* v. *School District of Pontiac, Inc.*, 309 *F.Supp.* 734 (*E.D. Mich.* 1970), *aff'd*, —— *F.2d* —— (6 *Cir.* 1971).

In *Lee* v. *Nyquist*, 318 *F.Supp.* 710 (*W.D. N.Y.* 1970), the New York Commissioner of Education had undertaken broad steps towards elimination of *de facto* segregation in the public schools. The New York Legislature sought to curb these by enacting a statute which prohibited the implementation of plans designed to alleviate racial imbalance in the schools except with the approval of "a local elected board." 318 *F.Supp.* at 718. The three-judge district court struck this statute as invidious and unconstitutional discrimination. In the course of his opinion, Judge Hays pointed out that although there may be no general duty under the federal constitution to undo *de facto* segregation, "it is by now well documented and widely recognized by educational authorities that the elimination of racial isolation in the schools promotes the attainment of equal educational opportunity and is beneficial to all students, both black and white" (318 F.Supp. at 714); and he approvingly quoted the following from a recent policy statement by the Regents of the University of the State of New York:

> "[T]he elimination of racial segregation in the schools can enhance the academic achievement of nonwhite children while maintaining achievement of white

children and can effect positive changes in interracial understanding for all children. The latter consideration is paramount. If children of different races and economic and social groups have no opportunity to know each other and to live together in school, they cannot be expected to gain the understanding and mutual respect necessary for the cohesion of our society. The stability of our social order depends, in large measure, on the understanding and respect which is derived from a common educational experience among diverse racial, social, and economic groups—integrated education. The attainment of integrated education is dependent upon the elimination of racial segregation in the schools." 318 *F.Supp.* at 714.

The judgment in *Lee* v. *Nyquist* was summarily affirmed by the Supreme Court without opinion. 39 *U.S.L.W.* 3478 (May 4, 1971).

Views along the lines found in *Lee* v. *Nyquist* were expressed by this Court in *Booker*. We there noted that whether or not the federal constitution compels action to eliminate or reduce *de facto* segregation in the public schools, it does not preclude such action by state school authorities in furtherance of state law and state educational policies. *See Morean* v. *Bd. of Ed. of Montclair, supra*, 42 *N.J.* at 242-44; *cf. Schults* v. *Bd. of Ed. of Teaneck, supra*, 86 *N.J. Super.* 29. We pointed out in *Booker* that "in a society such as ours, it is not enough that the 3 R's are being taught properly for there are other vital considerations. The children must learn to respect and live with one another in multi-racial and multi-cultural communities and the earlier they do so the better. It is during their formative school years that firm foundations may be

laid for good citizenship and broad participation in the mainstream of affairs. Recognizing this, leading educators stress the democratic and educational advantages of heterogeneous student populations, particularly when they are composed of a racial minority whose separation generates feelings of inferiority. It may well be, as has been suggested, that when current attacks against housing and economic discriminations bear fruition, strict neighborhood school districting will present no problem. But in the meantime the states may not justly deprive the oncoming generation of the educational advantages which are its due, and indeed, as a nation, we cannot afford standing by." 45 *N.J.* at 170-71.

It is true that *Booker* dealt with a community which was wholly contained within a single district fixed by municipal lines whereas here the community involves two districts. When dealing with *de jure* segregation the crossing of district lines has of course presented no barrier whatever. In *Haney* v. *County Board of Education of Sevier County, Ark.*, 410 *F.2d* 920 (8 *Cir.* 1969), *s.c.*, 429 *F.2d* 364 (8 *Cir.* 1970), the court of appeals flatly rejected a district court's notion that consolidation to eliminate segregation in the public schools may not be achieved without the voter approval contemplated by state law. In the course of his opinion, Judge Lay noted that "state political subdivisions have long ago lost their mastery over the more desired effect of protecting the equal rights of all citizens" (410 *F.2d* at 924); he pointed out that political subdivisions of the state are "mere lines of convenience for exercising divided governmental responsibilities" and "cannot serve to deny federal rights" (410 *F.2d* at 925); he stressed that equal protection rights do not depend on the votes of the majority

(410 *F.2d* at 925); and in response to those who still persist in their opposition to integration, he had this to say:

> Separatism of either white or black children in public schools thrives only upon continued mistrust of one race by another. It reflects a continuum of the fallacious "separate but equal" doctrine, which the law now acknowledges serves only as a sleeping sickness, whether it be engendered by the white or black. Separatism is just as offensive to the law when fostered by the Negro community as when the white community encourages it. Perpetuation of a bi-racial school system moves only toward further intolerances and misunderstandings. The law can never afford to bend in this direction again. The Constitution of the United States recognizes that *every* individual, white or black, is considered equal before the law. 410 *F.2d* at 926.

As the Supreme Court pointed out in *Reynolds* v. *Sims*, 377 *U.S.* 533, 12 *L.Ed.2d* 506, 535 (1964), political subdivisions of the states whether they be "counties, cities or whatever" are not "sovereign entities" and may readily be bridged when necessary to vindicate federal constitutional rights and policies. *See Gomillion* v. *Lightfoot*, 364 *U.S.* 339, 347, 5 *L.Ed.2d* 110, 116 (1960); *United States* v. *State of Texas*, 321 *F. Supp.* 1043, 1050-58 (*E.D. Texas* 1970); *cf. Jackman, et al.* v. *Bodine, et al.*, 55 *N.J.* 371 (1970). It seems clear to us that, similarly, governmental subdivisions of the state may readily be bridged when necessary to vindicate state constitutional rights and policies. This does not entail any general departure from the historic home rule principles and practices in our State in the field of education or elsewhere; but it does entail suitable measures of power in our State authorities for fulfillment of the educational

and racial policies embodied in our State Constitution and in its implementing legislation. Surely if those policies and the views firmly expressed by this Court in *Booker* (45 *N.J.* 161) and now reaffirmed are to be at all meaningful, the State Commissioner must have power to cross district lines to avoid "segregation in fact" (*Booker*, 45 *N.J.* at 168), at least where, as here, there are no impracticalities and the concern is not with multiple communities but with a single community without visible or factually significant internal boundary separations.

In addition to the broad general grants of supervisory powers to the Commissioner, typified by statutes such as *N.J.S.A.* 18A:4-23 and *N.J.S.A.* 18A:6-9, there are legislative enactments which specifically call for crossing of district lines. *See N.J.S.A.* 18A:38-8 *et seq.*; Blumrosen, *supra*, 19 *Rutgers L.Rev.* at 266-69. Among these are the provisions which relate explicitly to sending-receiving situations such as the one now in existence between Morris Township and Morristown; as we have already noted, that relationship under which the Township sends Township students to Morristown High School has, apart from a two-year interruption in 1958 and 1959, continued for over a hundred years. *N.J.S.A.* 18A:38-11 provides that a board of education in a district lacking high school facilities shall designate a high school outside its district for attendance by its high school students; and *N.J.S.A.* 18A:38-13 provides, in pertinent part, that no such designation "shall be changed or withdrawn" except for "good and sufficient reason upon application made to and approved by the commissioner."

Antecedents of *N.J.S.A.* 18A:38-11 and 13 were in force before the Legislature adopted *L.* 1953, *c.* 273—now *N.J.S.A.* 18A:38-20 *et seq.* That statute provides that when a board of education of a receiving district is furnishing high

school education to students from a sending district and additional facilities are required, the receiving district may, as a condition to providing the additional facilites, enter into a contract for a term not exceeding ten years under which the receiving district agrees to provide the education and the sending district agrees not to withdraw its students except as provided in paragraph two of the statute. *N.J.S.A.* 18A:38-20. That paragraph sets forth that any receiving district may apply to the Commissioner for consent to terminate the contract on the ground that it is no longer able to provide the necessary facilities, and any sending district may apply to the Commissioner for permission to withdraw its students and provide its own high school facilities on the ground that the receiving district is not providing suitable facilities or that the receiving district will not be seriously affected educationally or financially by the withdrawal. *N.J.S.A.* 18A:38-21.

Apparently the 1953 enactment was intended to give additional assurance to the receiving district furnishing additional facilities that it would not be endangered during the ten-year contract period. But the enactment was not in anywise intended to repeal nor did it have the effect of repealing the preexisting statutes such as that now embodied in *N.J.S.A.* 18A:38-13. Thus when the 1962 contract expires or is terminated in accordance with its terms, the Township's prior designation of Morristown High School continues in full effect until it is changed or withdrawn in strict accordance with *N.J.S.A.* 18A:38-13. That statute appeared in the 1937 Revision as part of *R.S.* 18:14-7. At that time it made no specific reference to withdrawal but did provide that no change of designation could be made except for good and sufficient reason and subject to the approval of the Commissioner. In 1956 *R.S.* 18:14-7 was

amended to provide that the designation shall not be "changed or withdrawn" unless good and sufficient reason exists for the change and subject to the approval of the Commissioner. *L.* 1956, *c.* 68. In the 1968 Revision of the Education Law (*L.* 1967, *c.* 271) the pertinent statutory language was put into its current form which explicitly provides, as set forth earlier, that the designation shall not be "changed or withdrawn" except for "good and sufficient reason upon application made to and approved by the commissioner." *N.J.S.A.* 18A:38-13.

Despite the cited broadening and sweep of the statutory terms, the Commissioner expressed the view that he had no power whatever under *N.J.S.A.* 18A:38-13 to prevent the withdrawal of the Morris Township students from the Morristown High School. He cited earlier administrative rulings in which his predecessors had taken the position that "once a school district provides its own high school facilities" *R.S.* 18:14-7 is inapplicable. They in turn had relied on language in *R.S.* 18:14-7 to the effect that any district which "lacks or shall lack high school facilities" may designate a high school outside its district for its high school students. In the present statute (*N.J.S.A.* 18A:38-11) the reference to "shall lack" is omitted and the provision now is that every district "which lacks high school facilities" shall designate a high school in another district for its high school students. Morris Township still comes within the literal terms of the statute but, more important, is our present disapproval of the administrative holding that the unilateral determination by Morris Township to build its own high school (*cf. N.J.S.A.* 18A:45-1) has the legal effect of nullifying the precise statutory requirement (*N.J.S.A.* 18A:38-13) under which ultimate withdrawal of its high school students from Mor-

ristown High School may not be accomplished without a prior showing to the Commissioner of good and sufficient reason and express approval on his part.

Surely on examination of the statutory terms themselves there is nothing in *N.J.S.A.* 18A:38-13 to support the Commissioner's restrictive construction. Nor have we found anything legislatively or judicially sustaining his suggestion that the history of the sending-receiving statute reveals "the total vulnerability of a receiving district upon the decision of a sending district to erect its own facilities and educate its pupils itself." While the earlier administrative rulings had that effect, they simply constituted the narrowing of a broad legislative provision in a manner comparable with other administrative self-limiting approaches which we have repeatedly rejected. *Cf. Bd. of Ed., E. Brunswick Tp.* v. *Tp. Council, E. Brunswick, supra,* 48 *N.J.* 94; *Booker* v. *Board of Education, Plainfield, supra,* 45 *N.J.* 161; *In re Masiello, supra,* 25 *N.J.* 590; *Laba* v. *Newark Board of Education, supra,* 23 *N.J.* 364. The Commissioner has been appropriately charged with high responsibilities in the educational field and if he is faithfully to discharge them in furtherance of the State's enlightened policies he must have corresponding powers. The Legislature has here granted them in broad terms and it would disserve the interests of the State to permit their administrative narrowing which in effect represents not only a disavowal of power but also a disavowal of responsibility.

In view of all of the foregoing, it is evident that the Commissioner erred in dismissing, for lack of power under *N.J.S.A.* 18A:38-13, the appellants' petition and cross-petition that he take suitable steps towards preventing Morris Township from withdrawing its students from Mor-

ristown High School. We come now to consideration of his dismissal of their further petition that he take suitable steps towards effectuating a merger of the Morris Township and Morristown school systems. Here again the dismissal was rested on lack of power, the Commissioner having concluded that the State constitutional provisions (art. 1, para. 5; art. 8, sec. 4, para. 1) and his comprehensive general statutory powers were insufficient to enable him to deal with the situation. *See N.J.S.A.* 18A:4-22, 23, 24, 25, 29; *N.J.S.A.* 18A:6-9; *N.J.S.A.* 18A:55-2; *cf. N.J.S.A.* 18A:4-10, 15, 16; *N.J.S.A.* 18A:45-1.

In reaching his conclusion the Commissioner stressed that while the Legislature had made specific provision for the merger of local districts into regional districts with voter approval (*N.J.S.A.* 18A:13-34), it had not made specific provision for any "alternative method." He expressed the view that the legislative grant to him of "broad supervisory powers" did not enable him to act without the stated requirements such as voter approval though this approach may be contrasted with *East Brunswick, supra,* 48 *N.J.* 94, where we recently upheld the Commissioner's power to reinstate a local school budget rejected by the local voters. For present purposes we need not pursue the issue in its broader aspects for the situation here is indeed a specially compelling one and in traditional judicial fashion our holding may be confined to it. As has already been pointed out, here we are realistically confronted not with multiple communities but with a single community having no visible or factually significant internal boundary separations, and with a record which overwhelmingly points educationally towards a single regional district rather than separate local districts.

"The projections leave little room for doubt as to the unfortunate future if suitable action is not taken in timely fashion. The Commissioner explicitly referred to the growing racial imbalance between the Town and the Township and to its long-range harmful effects on the school systems of both; and he recognized that unless forestalled there would be another urban-suburban split between black and white students. Unlike other areas in the State, the split can readily be avoided without any practical upheavals; indeed the record indicates not only that merger would be entirely "reasonable, feasible and workable" (*Swann v. Charlotte-Mecklenburg Bd. of Ed., supra,* —— *U.S.* at ——, 28 *L.Ed.2d* at 575) but also that it would not significantly involve increased bussing or increased expenditures since most of the schools within the Town and the Township are located near their boundary line. So far as the educational advantages of merger are concerned, the testimony most persuasively indicates that they will redound to the benefit of the students from the Township as well as the Town; such minor dissent as appears in the testimony is in flat conflict with the educational views firmly held by the Commissioner and with the judicial views expressed by this Court in *Booker* (45 *N.J.* 161).

In the course of his decision, the Commissioner recognized that, as a matter of State policy and apart from federal dictates, there is an "obligation to take affirmative steps to eliminate racial imbalance, regardless of its causes." Citing our constitutional provisions for a thorough and efficient school system (art. 8, sec. 4, para. 1) and against segregation in the schools (art. 1, para. 5), he noted: "it may well be that, given the racial disparity between the school populations in Morristown and Morris Township and given the disparity in socio-economic make-

up of the two communities and the resultant difference in capacity to provide quality education programs, the Legislature has not fulfilled its constitutional obligation to provide for a thorough and efficient system of public schools." But it seems to us that rather than suggesting an intolerable legislative default, he could and should more reasonably and suitably have found, as we did in *Booker, supra,* 45 *N.J.* at 173-81, faithful legislative fulfillment of the constitutional mandate in the many broad implementing enactments delegating comprehensive powers to the Commissioner.

In *Booker* we held that the Commissioner had the responsibility and power of correcting *de facto* segregation or imbalance which is frustrating our State constitutional goals; we pointed out that where the Commissioner determines that the local officials are not taking reasonably feasible steps towards the adoption of a suitable desegregation plan in fulfillment of the State's policies, he may either call for a further plan by the local officials or "prescribe a plan of his own." 45 *N.J.* at 178. There was no specific statutory language to that effect but we found sufficient legislative authority in the various general statutes which have been adopted by the Legislature from time to time and are now embodied in the 1968 Revision of the Education Law (*L.* 1967, *c.* 271). In particular, we referred to the Commissioner's long standing and comprehensive power under *N.J.S.A.* 18A:6-9, pertinent here, to decide all controversies under the school laws or under the rules of the State Board of Education or the Commissioner (45 *N.J.* at 175), and we cited Blumrosen, *supra,* 19 *Rutgers L.Rev.* at 261 where many other pertinent powers of the Commissioner are enumerated. These include, as set forth earlier in this opinion, many broad supervisory powers designed to enable him, with the approval of the State Board of Education, to

take necessary and appropriate steps for fulfillment of the State's educational and desegregation policies in the public schools. *Booker, supra,* 45 *N.J.* at 173-81; *N.J.S.A.* 18A:4-22, 23, 24, 25, 29.

The Commissioner has been expressly vested with power to withhold State aid from any school district which fails "to obey the law or the rules or directions of the state board or the commissioner." *N.J.S.A.* 18A:55-2; *cf. N.J.S.A.* 18A:58-16. Similarly he has been expressly vested with power to withhold State aid from any school district which fails to provide "suitable educational facilities" including proper buildings and equipment, convenience of access and courses of study. *N.J.S.A.* 18A:33-1, 2; *cf. N.J.S.A.* 18A:11-1 On a broad interpretation, schools with feasibly correctable racial imbalances might well currently be viewed as not affording suitable educational facilities within the meaning of the statutory language. *Cf.* Blumrosen, *supra,* 19 *Rutgers L.Rev.* at 259 n. 155. In any event, it may be noted that the Commissioner acted with unusual hesitancy when he merely recommended the study of regionalization in which the Township Board declined to participate; he could readily have directed its participation with the ample strength of an arsenal of powers including, *inter alia,* the power to withhold State aid (*N.J.S.A.* 18A:55-2) and the power to withhold approval of school construction. *N.J.S.A.* 18A:45-1; *N.J.S.A.* 18A:18-2.

The Commissioner's criticism of the Township Board's conduct in connection with the non-binding referendum was well taken. Apart from whether Board members had the right to seek a non-binding referendum at all (*compare Botkin* v. *Westwood, supra,* 52 N.J. *Super,* 416 *with Gamrin* v. *Mayor and Council of Englewood,* 76 *N.J. Super.* 555 (*Law Div.* 1962)) they clearly had no right to pledge them-

selves in advance to abandon their individual affirmative views in favor of the majority negative vote. *Cf. Cullum v. Bd. of Education of Tp. of North Bergen*, 15 *N.J.* 285 (1954). The vote was taken without the benefit of a suitable regionalization study on the part of the Township and without full and fair presentation to the voters of material considerations such as projected capital cost savings to Township taxpayers, etc. It has been suggested that it was motivated by constitutionally impermissible racial opposition to merger (*cf. Lee* v. *Nyquist, supra*, 318 *F. Supp.* 710; *West Morris Regional Board of Education* v. *Sills*, — *N.J.* — (1971)) but we pass that by since the Commissioner made no finding to that effect and his powers were of course in nowise dependent on any such finding.

In the light of all that has been said earlier in this opinion, we now find that the Commissioner erred not only in the dismissal of the appellants' petition and cross-petition insofar as they related to withdrawal of Township students from Morristown High School but also insofar as they related to merger of the Morris Township and Morristown school systems. The Commissioner is adequately empowered to entertain such further proceedings pursuant to the petition and cross-petition as he finds appropriate and to grant such prayers therein as he considers warranted including (1) direction for continuance of the sending-receiving relationship after the expiration of the present contract and (2) direction that the Boards of the Township and Town proceed with suitable steps towards regionalization, reserving, however, supervisory jurisdiction to the Commissioner with full power to direct a merger on his own if he finds such course ultimately necessary for fulfillment of the State's educatoinal and desegregation policies in the public schools.

Reversed.

Appendix D

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ALABAMA

SOUTHERN DIVISION

CIVIL ACTION NO. 65-396-S

LINDA STOUT, *et al.*,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

JEFFERSON COUNTY BOARD OF EDUCATION, *et al.*,

Defendants,

BOARD OF EDUCATION OF THE CITY OF PLEASANT GROVE,

Defendant-Intervenor,

BOARD OF EDUCATION OF THE CITY OF HOMEWOOD, *et al.*,

Defendants,

BOARD OF EDUCATION OF THE CITY OF VESTAVIA HILLS, *et al.*,

Defendants,

BOARD OF EDUCATION OF THE CITY OF MIDFIELD, *et al.*,

Defendants.

ORDER

Pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit of July 16, 1971, it is hereby

Appendix D

ORDERED, ADJUDGED and DECREED:

1. That the Boards of Education for Jefferson County, Pleasant Grove, Homewood, Vestavia Hills and Midfield be and they are hereby ordered to collaborate in preparing a uniform desegregation plan in compliance with the requirements of *Swann* v. *Charlotte-Mecklenburg Board of Education*, —— U.S. —— (1971) (No. 281, decided April 20, 1971). This plan shall encompass all of the systems included in Jefferson County at the time of the filing of the original suit. The plan shall graphically show the zones proposed along with projections of enrollments by race at all schools involved in the Jefferson County case. This plan shall be filed and served upon the parties no later than August 6, 1971. All parties shall submit objections, if any, by August 12, 1971.

2. The Boards of Education in paragraph 1 above shall take steps to insure compliance with the uniform provisions of *Singleton* v. *Jackson Municipal Separate School District*, 419 F.2d 1211 (5th Cir., 1969). The plans filed pursuant to paragraph 1 above shall incorporate the revised majority to minority provisions as required under *Swann, supra.*

3. On each September 30 and January 30 until the Court directs otherwise the Boards of Education in paragraph 1 above are directed to file reports as required in *United States* v. *Hinds County School Board*, 433 F.2d 611, 618-19 (5th Cir., 1970).

Done and Ordered this 22nd day of July, 1971.

SEYBOURN H. LYNNE
UNITED STATES DISTRICT JUDGE

FILE COPY

Supreme Court, U.S.
FILED
DEC 7 1971
E. ROBERT SEAVER, CLERK

No. 70-130

In the Supreme Court of the United States

OCTOBER TERM, 1971

UNITED STATES OF AMERICA, PETITIONER

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE UNITED STATES

ERWIN N. GRISWOLD,
Solicitor General,
DAVID L. NORMAN,
Assistant Attorney General,
LAWRENCE G. WALLACE,
Deputy Solicitor General,
A. RAYMOND RANDOLPH, JR.,
Assistant to the Solicitor General,
BRIAN K. LANDSBERG,
THOMAS M. KEELING,
Attorneys,
Department of Justice,
Washington, D.C. 20530.

INDEX

	Page
Opinions below	1
Jurisdiction	1
Question presented	2
Constitutional and statutory provisions involved	2
Statement	3
A. The school system before the 1969–70 school year	3
B. Chapter 31, 1969 Session Laws of North Carolina	7
C. The proceedings below	12
Introduction and summary of argument	16
Argument	19
I. The separation of Scotland Neck from the Halifax County system would perpetuate vestiges of the dual school system	19
II. State statutes that restructure desegregating school systems bear a heavy burden of justification if desegregation is thereby impaired	23
III. The reasons given for establishing the Scotland Neck City school system do not satisfy the defendants' heavy burden of justification	31
Conclusion	34
Appendix A	35
Appendix B	37
Appendix C	43

CITATIONS

Cases:	
Alexander v. *Holmes County Board of Education*, 396 U.S. 19	25
Bates v. *Little Rock*, 361 U.S. 516	30

Cases—Continued

	Page
Bolling v. *Sharpe*, 347 U.S. 497	30
Brown v. *Board of Education*, 349 U.S. 294	4, 29, 31
Brown v. *Board of Education*, 347 U.S. 4[illegible]	4, 16, 17, 18, 19, 28, 29
Buchanan v. *Warley*, 245 U.S. 60	27, 31
Burleson v. *County Board of Education Commissioners of Jefferson County*, 308 F. Supp. 352, affirmed, 432 F. 2d 1356	24
Bush v. *Orleans Parish School Board*, 188 F. Supp. 916, affirmed, U.S. 569	24
Cipriano v. *City of Houma*, 395 U.S. 701	30
Cooper v. *Aaron*, 358 U.S. 1	29, 31
Davis v. *Board of School Commissioners of Mobile County*, 402 U.S. 33	22
Gaston County v. *United States*, 395 U.S. 285	33
Gomillion v. *Lightfoot*, 364 U.S. 339	24
Green v. *School Board of New Kent County*, 391 U.S. 430	5, 19–20, 22, 24–25, 30
Griffin v. *County School Board*, 377 U.S. 218	24, 33
Harper v. *Virginia Board of Elections*, 383 U.S. 663	30
Heart of Atlanta Motel v. *United States*, 379 U.S. 241	27
Henry v. *Clarksdale Municipal Separate School District*, 409 F. 2d 682, certiorari denied, 396 U.S. 940	22
Hunter v. *Erickson*, 393 U.S. 385	24, 27
Korematsu v. *United States*, 323 U.S. 214	30
Kramer v. *Union Free School District No. 15*, 395 U.S. 621	30
Lee v. *Macon County Board of Education*, 267 F. 458, affirmed *sub nom. Wallace* v. *United States*, 389 U.S. 215	33

Cases—Continued Page

Lee and United States v. *Macon County Board of Education*, 746 F. 2d 448 ..... 24, 26
Louisiana v. *United States*, 380 U.S. 145 25
Loving v. *Virginia*, 388 U.S. 1 30
Lucas v. *Forty-Fourth General Assembly*, 377 U.S. 713 24
McDaniel v. *Barresi*, 402 U.S. 39 20
McLaughlin v. *Florida*, 379 U.S. 184 30
Monroe v. *Board of Commissioners*, 391 U.S. 450 ..... 23, 31
North Carolina State Board of Education v. *Swann*, 402 U.S. 43 ..... 25, 27
Palmer v. *Thompson*, 403 U.S. 217 28
Plessy v. *Ferguson*, 163 U.S. 537 33
Poindexter v. *Louisiana Financial Assistance Commission*, 275 F. Supp. 833, affirmed, 389 U.S. 571 28–29
Raney v. *Board of Education of Gould School District*, 391 U.S. 443 20
Reitman v. *Mulkey*, 387 U.S. 369 24
Shapiro v. *Thompson*, 394 U.S. 618 30
Sherbert v. *Verner*, 374 U.S. 398 30
Smith v. *Texas*, 311 U.S. 128 29
Swann v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 ..... 22, 23, 24, 25, 30
Turner v. *Warren County Board of Education*, 313 F. Supp. 380, affirmed *sub nom. Turner* v. *Littleton-Lake Gaston School District*, 442 F. 2d 584 ..... 13, 14
Wright v. *Council of the City of Emporia*, 442 F. 2d 570, certiorari granted, October 12, 1971, No. 70–188 ..... 14, 15
Wright v. *Georgia*, 373 U.S. 284 31–32

Cases—Continued

United States v. *Indianola Municipal Separate School District*, 410 F. 2d 626, certiorari denied, 396 U.S. 1011 22

United States v. *Jefferson County Board of Education*, 372 F. 2d 836, affirmed *en banc* 380 F. 2d 385, certiorari denied *sub nom. Caddo Parish School Board* v. *United States*, 389 U.S. 840 23

Constitution and statutes:

United States Constitution, Fourteenth Amendment, Section 1 2

Civil Rights Act of 1964, Section 407, 42 U.S.C. 2000c–6 ..... 5, 12, 37

1969 Session Laws of North Carolina, Chapter 31 ..... 7, 8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 26, 27, 29, 30, 31, 32, 33, 34, 39

In the Supreme Court of the United States

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the court of appeals sitting *en banc* (App. 1104) and the dissenting opinions (App. 1126 and 1140) are reported at 442 F. 2d 575, 588, and 593, respectively. The order and opinion of the district court entered on motion for preliminary injunction (App. 788, 790) are not reported; the district court's final opinion and order (App. 1062) are reported at 314 F. Supp. 65.

JURISDICTION

The judgment of the court of appeals (App. 1118) was entered on March 23, 1971. The petition for a

writ of certiorari was filed on April 22, 1971, and granted on October 12, 1971 (App. 1152). The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the court of appeals erred, in holding that a state may split a desegregating school district into multiple districts, even if the establishment of a unitary system is thereby impaired, unless the "primary purpose" of the split is to retain as much separation of the races as possible.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 1 of the Fourteenth Amendment to the Contitution of the United States provides as follows:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, is set out in Appendix A to this brief, *infra*, pp. 37–38.

Chapter 31 of the 1969 Session Laws of North Carolina is set out in Appendix B to this brief, *infra*, pp. 39–44.

STATEMENT

A. The School System Before the 1969–70 School Year

Halifax County, North Carolina, is a 722 square-mile rural and agricultural region in the northern part of the State (App. 609).[1] Near the center of the southeastern portion of the County is Scotland Neck, a small town with a population of about 3000 (App. 1063; App. C, *infra*, p. 45). Since 1936 the schools in Scotland Neck have been operated as part of the Halifax County Administrative Unit (App. 1064).[2]

The Halifax County school system consists of eighteen schools: nine elementary schools; one high school; and eight "union" schools, which have students at both the elementary and secondary levels (App. 642). The only school within the town of Scotland Neck was a "union" school. In the school year beginning in 1968, 10,655 students attended schools within the County system; 77 percent of these students were black, 22 percent were white and 1 percent were American Indians (App. 727).[3] Four of the County's schools, in-

[1] The population of the County was 58,956 in 1960 (App. 591,609).

[2] Within the geographic area of Halifax County there are also two smaller, separately administered school units: the Roanoke Rapids unit, and the Weldon unit; each of which is in the northwestern region and is bounded on the north by the County line (App. 605).

[3] There were 8,196 black students, 2,357 whites and 102 American Indians (App. 727).

cluding the Scotland Neck school, were traditionally white only; the other fourteen were black only (App. 635, 1064).

In the years following *Brown I*[4] and *Brown II*[5] the Halifax County school system remained completely segregated on the basis of race (App. 1064). In 1965 the County system adopted a freedom-of-choice plan but little integration resulted and the dual school system continued virtually intact (App. 1064). During the school year 1967–68, all of the white students attended the four traditionally white schools, and 97 percent of the black students attended the other, traditionally all-black schools (App. 823–840). Only 6 percent of the 875 students at the Scotland Neck school[6] were black; at the Brawley school,[7] less than one mile away and across the street marking the corporate limits of Scotland Neck (App. 233), all 1,151 students were black (App. 836, 825).[8] During the 1967–68 school year, 9,872—more than 90 percent—of the students in the County system were transported to school by school buses (App. 648); the school bus system was also segregated on the basis of race (App. 876). There were no attendance zones (App. 816), although the schools tended to serve identifiable areas (App. 273–277).

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[4] 347 U.S. 483.

[5] 349 U.S. 294.

[6] The Scotland Neck school had students from grades 1 to 12 (App. 836).

[7] The Brawley school also served grades 1 to 12 (App. 825).

[8] All of the teachers at Brawley were black; 90 percent of the teachers at Scotland Neck were white (App. 865).

In July 1968, shortly after this Court's decision in *Green* v. *School Board of New Kent County*, 391 U.S. 430, the Department of Justice notified the Halifax County school board, pursuant to Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, that the operation of its schools did not comply with constitutional requirements (App. 1064). Negotiations between the Board and the Justice Department resulted in agreement for a plan to disestablish the County's dual school system by the fall of 1969, with interim steps to be taken for the 1968–69 school year (App. 223, 225). The government therefore did not file suit.

The interim steps taken by the Board in the 1968–69 school year pursuant to its agreement with the Justice Department included assignment of the seventh and eighth grades of the all-black Brawley school to the nearby Scotland Neck school (App. 223, 825). These and other assignments, as well as the Board's promise to desegregate completely by the fall of 1969, were given wide publicity in the local press (App. 761, 773).[9]

Shortly before it received the notice letter from the Justice Department in July 1968, the Board had asked the North Carolina Department of Public Instruction to determine the steps necessary for the Board to meet its desegregation obligations and to

[9] In the late summer and early fall of 1968 local newspapers reported that the Board had been ordered to end the dual system, that zoning or pairing of schools would be more effective than freedom-of-choice in doing so, and that integration was increasing in County schools, particularly in Scotland Neck where the proportion of black students had reached 20 percent (App. 761–773).

recommend the "most effective organizational patterns for the County schools in order 'to insure the best education possible for the children' " (App. 759). Pursuant to this request, the State Department of Public Instruction conducted a survey of the County system in 1968. It recommended as an Interim Plan[10] that assignments be made on the basis of four geographic attendance zones, with pairing of grades between some schools (App. 606). For the zone served by the predominantly white Scotland Neck school and the all-black Brawley School, the plan prescribed a zoning-pairing arrangement with all students in grades 10–12 assigned to the Scotland Neck school and those in grade 9 to the Brawley school (App. 606, 608, 681–682). For grades 1–8, students would attend one of the four other area schools in their vicinity,[11] or, if they lived in the immediate area of the Scotland Neck and Brawley schools, those in grades 5-6 would attend Scotland Neck and those in the remaining grades (1–4 and 7–8) would go to Brawley.[12] Under

[10] The survey, dated September 1968, also included a Long Range Plan, suggesting that two new high schools be built, one in the east and one in the west, to serve the entire County system (App. 598).

[11] These schools had traditionally served only grades 1-8 (App. 824, 826, 837, 838).

[12] The area was thus consolidated into a single zone for secondary-level students; all these students would attend either Brawley or Scotland Neck school, depending on their grade level. For the elementary students the area was divided into 5 sub-zones, with children in 4 of the sub-zones assigned to the one school in their immediate area (Bakers, Dawson, Thomas Shields, and Tillery Chapel schools) and students in the 5th sub-zone (Brawley and Scotland Neck schools) assigned as stated in the text (App. 606, 681–682).

this plan an estimated total of 330 white and 740 black students would attend Brawley; 325 whites and 640 blacks would attend Scotland Neck (App. 681–682).

Had the survey's Interim Plan been implemented, some white students would have been assigned to each of the fourteen formerly all-black schools in the County and none of the four previously white schools would have retained a white majority (App. 681).[13] But the County Board declined to implement the Interim Plan and, in February 1969, also repudiated its agreement with the Department of Justice by voting to retain, with respect to the schools in the Scotland Neck-Brawley area, the freedom-of-choice plan under which it had been operating (App. 229, 245, 585–586).

B. Chapter 31, 1969 Session Laws of North Carolina

Shortly thereafter, on March 3, 1969, the North Carolina General Assembly enacted Chapter 31, 1969 Session Laws of North Carolina (App. B, *infra*, pp. 39–44). This local law provided for a new school district bounded by the corporate limits of Scotland Neck and a supplemental tax assessment, upon approval by a majority of the city's voters. In a special election held on April 8, 1969, the voters approved [14]

[13] Only the formerly all-black Everetts elementary school in the northwestern section of the County (App. 829) would have had a slight white majority.

[14] The vote was 813 for and 332 against (App. 1069). The total number of registered voters was 1382; of these, 360 were black (App. 104–105).

and thereafter some preliminary steps were taken so that the newly-created Scotland Neck City Administrative Unit could start operation at the beginning of the 1969–70 school year (App. 1069–1070).

Chapter 31's implementation would have resulted in carving out of the Halifax County system, which had a total of 10,655 students, a smaller school district of 695 students, of whom 399 were white and 296 were black (App. 1071). This legislation thus created an enclave, 57 percent white and 43 percent black, from a school system having a 22 percent white and 77 percent black student population.[15]

When introduced, Chapter 31 met immediate opposition, principally on the ground that the bill adversely affected desegregation of the County schools. In remarks to a legislative committee, Dr. Craig Phillips, State Superintendent of Public Instruction for North Carolina, opposed the bill mainly on the ground that it was contrary to the trend of consolidating school districts, and also expressed concern that it would increase, rather than decrease, the desegregation problem facing the Halifax County schools (App. 163–168, 1069).[16] Black citizen groups,

[15] Prior to 1969, the last time a separate school administrative unit was created in North Carolina was in 1954 (App. 173). In 1965, there was an unsuccessful legislative proposal for a separate school system within Halifax County which included not only the town of Scotland Neck but also the portion of the surrounding area served by four of five all-black schools (App. 319, 1066–1067). Under that proposal the students would have been about 3 to 1 black (App. 824–826, 836, 838), and would have continued to be assigned under freedom-of-choice (App. 352).

[16] Dr. Phillips had given the same warning privately to the bill's principal proponents when it was introduced (App. 161–163).

especially one led by Reverend Deloatche, opposed it, as did the superintendent of the Halifax County system (App. 1069). As newspaper accounts observed, the proposed new city system would establish "an educational island dominated by whites," and, "[b]y creating a sharper racial imbalance in municipal schools, the town would promote a sharper imbalance —in reverse—out in the county" (App. 785).

Henry L. Harrison, for 13 years a member of the Halifax County Board of Education until he resigned in December 1968, testified that as one of the bill's chief proponents, he had told the legislature that the Scotland Neck area had lost 55 children to segregated private schools and that something had to be done to prevent further flight of white students (App. 369–370, 1074). This was the only point he made to the state legislature (App. 369–370). Another principal proponent, Frank P. Shields, stated that the bill's proponents were concerned about the loss of whites to private schools, and felt that private schools provide education inferior to that of public schools. Together with most of the townspeople, the proponents were convinced, Shields stated, that the local bill was a better solution than private schools to the white flight problem (App. 431–433, 1074–1075). Shields also expressed the view that the bill was a better alternative than pairing the Scotland Neck school with the Brawley school (App. 431).

The Chairman of the Halifax County Board of Education, C. M. Moore, testified that, at the time the Scotland Neck bill had been introduced, he had stated

that the proposed separate school unit would be good for the people of Scotland Neck in view of the fact that black students outnumber white students in the Halifax County system by about four to one (App. 125). He added that the County unit was every day losing white children to private schools, and that in the following year (1969–70) the system might lose a large number (App. 126). He stated that the people in Scotland Neck wanted the separate system as an alternative to private schools (App. 126–127).[17]

A number of witnesses also testified that the bill would give the residents of Scotland Neck more control over their school and would enable them to have a supplemental local tax, both of which the residents considered desirable (App. 1073–1075). Dr. Phillips believed that the bill reflected the people's "concern about the quality of education" for the children of Scotland Neck (App. 1074). However, prior to the bill's introduction no studies were made regarding educational advantages of the new district and no plans were made regarding how the supplement would be spent, although some people assumed it would be used to increase teachers' salaries (App. 240, 1076).

[17] Counsel for the Scotland Neck City Board of Education stated in argument before the district court that Chapter 31 had as its intended effect, retention of an acceptable white-black ratio and prevention of white flight (App. 1074; Tr. 117–118).

After Chapter 31 went into effect, the newly-appointed members of the Scotland Neck Board of Education devised a plan for transfer of students between the County system and the new system (App. 1070–1071). By the end of August 1969, 350 white and 10 black students residing in the County outside Scotland Neck had applied for transfer into Scotland Neck school for 1969–70; 44 black and no white students from the Scotland Neck system had applied to transfer out to the nearby all-black Brawley school in the County system (App. 1071).[18] This would have resulted in a total of 749 white students and 262 black students in the newly-created Scotland Neck unit. Thus, for the 1969–70 school year Scotland Neck school would have consisted of 74 percent white and 26 percent black students—approximately the same white-black ratio that existed in the preceding year and a nearly complete reversal of the ratio under the State Survey's Interim Plan to disestablish the County's dual school system by 1969[19] and of the ratio for the County system as a whole. Since the school facilities within the corporate limits of Scotland Neck were insufficient to accommodate even the 695 resident students, the Scotland Neck Board leased

[18] Scotland Neck charged a fee for the transfers into the system: $100 for the first child in a family; $25 for each of the next two children; and all others free-of-charge (App. 1071).

[19] Under this plan, an estimated 325 (34%) white students and 640 (66%) black students would have attended Scotland Neck school, see p. 7 *supra*. The white-black ratio for the entire County system was 22:77.

from the County the former Scotland Neck Junior High School building, which was just outside the boundary of the new district (App. 233, 253–255).

Chapter 31 is directly contrary to the State's policy, as expressed by state education officials, that schools and school districts should be consolidated, not balkanized, in order to achieve increased efficiency and effectiveness in the operation of public schools (App. 1075). The North Carolina Governor's Study Commission report of December 1968, which was endorsed by Dr. Craig Phillips, State Superintendent of Public Instruction, and supported by the North Carolina Teachers' Association (App. 261), approved as a desirable district one with 9,000 to 10,000 pupils, and as a minimally acceptable district one with 3,500 to 4,000 pupils (App. 688, 702).[20] The 1968 State Survey made on behalf of the Halifax County system recommended consolidation of the schools and school districts within the County (App. 587, 597–600).

C. The Proceedings Below

The government's complaint in this action, filed on June 16, 1969, under Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, sought an order to desegregate the Halifax County school system and an injunction against the operation of Chapter 31 (App.

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[20] Although some of the smaller school districts within the State ranked high in comparative teacher-pupil ratios, library books-pupil ratios and the like, the State Superintendent of Public Instruction explained that in no sense was this ranking intended nor should it be used, as an educational evaluation of the systems (App. 184).

26).[21] The district court, with both judges sitting,[22] found that Chapter 31 had "the effect of creating a refuge for white students of the Halifax County School system, and interferes with the desegregation of the Halifax County School system, in accord with the plan adopted by said Board * * *." 314 F. Supp. at 78 (App. 1083).[23] Further finding that Chapter 31 "was at least partially motivated by a desire to stem the flight of white students from the public schools" and "prevents the Halifax County Board of Education from complying with the orders of this court is-

[21] Scotland Neck City Board of Education was added as a defendant by the government's amended complaint of August 15, 1969 (App. 62).

Other persons later intervened as plaintiffs, including two Halifax County teachers and a number of minor school children in the Scotland Neck System on behalf of themselves and all other black public school teachers, parents and students similarly situated (App. 1062 n. 1, 1063). The Attorney General of North Carolina, on behalf of the State, also intervened as a defendant (App. 1063).

[22] There was a consolidated trial on the merits of the instant case and *Turner* v. *Warren County Board of Education*, 313 F. Supp. 380 (E.D.N.C.). Warren County is adjacent to Halifax County on the west; the town of Littleton lies partly in both counties. The *Turner* case involved the carving out of two separate city administrative units from the Warren County system; the district court's order and opinion enjoining that action was affirmed *sub nom. Turner* v. *Littleton-Lake Gaston School District*, 442 F. 2d 584 (C.A. 4).

[23] In its amended answer to the government's complaint, the School Board stated that it intended to allow only such transfers as "may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court" (App. 796). See, also, 442 F. 2d at 592 (App. 1146–1147) (Winter, J., dissenting).

sued in protection of constitutional rights,"[24] The court issued, on May 23, 1970, an order enjoining the operation of Chapter 31.[25]

On appeal the court of appeals sitting *en banc*[26] reversed, 442 F. 2d 575 (App. 1104), with Judges Sobeloff, 442 F. 2d 593 (App. 1126), and Winter, 442 F. 2d 588 (App. 1140), dissenting. The court held that Chapter 31 did not interfere with the desegregation of the Halifax County schools, that it did not create a white refuge, and, under the "primary pur-

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[24] On November 24, 1969, the district court had ordered the Halifax County Board of Education to submit a plan by December 15, 1969, to end the entire dual system (App. 923–924). Earlier the court had ordered the Board to reconsider the Interim Plan recommended by the State Department of Public Instruction (see pp. 5–7 *supra*).

[25] The district court, on November 3, 1969, had dismissed the Halifax County Board of Education from the portion of the case dealing with the constitutionality of Chapter 31 (App. 812).

On May 19, 1970, the district court ordered the Halifax County Board of Education to desegregate its school system, including Scotland Neck, pursuant to the Interim Plan proposed by the State Department of Public Instruction, see pp. 5–7 *supra*, as modified by certain proposals of the Board (App. 1098). Under the modified Interim Plan, Scotland Neck school served only grades 10–12 for District I; Brawley served grade 9 for the entire District and grades 1–8 for students in the immediate vicinity of Scotland Neck and Brawley; the four remaining elementary schools in District I served grades 1–8 for students in their vicinity (App. 1098, 1100).

[26] After argument on September 16, 1970, before a panel of three judges, the case was reargued before the court *en banc* on December 7, 1970, along with the appeal in *Turner* v. *Littleton-Lake Gaston School District*, 442 F. 2d 584, and *Wright* v. *Council of the City of Emporia*, 442 F. 2d 570, certiorari granted, October 12, 1971, No. 70–188.

pose" test formulated in *Wright* v. *Council of the City of Emporia*, 442 F. 2d 570, 572, certiorari granted, October 12, 1971, No. 70–188, decided by the court on the same day, that two non-racial justifications adequately explained the secession of Scotland Neck, even assuming that a more even racial balance would be more effective in creating a unitary system in Halifax County, 442 F. 2d at 583 (App. 1116).[27]

[27] The district court had found that "the following motivating forces were responsible for the design of the legislation creating the separate Scotland Neck school district: (1) the desire to improve the education level in the Scotland Neck schools, the present conditions in those schools having been brought about by a lengthy history of neglect and discrimination with respect to financial allocations to the Scotland Neck schools by the Halifax County Board of Education; (2) a desire on the part of the leaders of Scotland Neck to preserve a ratio of black to white students in the schools of Scotland Neck that would be acceptable to white parents and thereby prevent the flight of white students to the increasingly popular all-white private schools in the area; (3) a desire on the part of the people of Scotland Neck to control their own schools and be in a position to determine their direction with more finality than if the schools were a part of the Halifax County system. In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck, but it is sufficient to say that the record amply supports the proposition that each of the three played a significant role in the final passage and implementation of Chapter 31." 314 F. Supp. at 72 (App. 1073). The court of appeals stated: "There is evidence in the record to show that the three purposes that the District Court found were intended by the proponents of Chapter 31 were presented to the Legislature." 442 F. 2d at 582, n. 3 (App. 1113–1114 n. 3).

The court did, however, enjoin the proposed transfer plan on the ground that it would tend to resegregate the school systems (App. 1117).[28]

INTRODUCTION AND SUMMARY OF ARGUMENT

Over the years that passed after *Brown I*, Halifax County continued to operate a dual school system. In the summer of 1968 the Halifax County Board of Education at last faced up to its constitutional duty by agreeing to a plan to desegregate its schools, but the Board subsequently repudiated the agreement and Scotland Neck, a majority white enclave in the predominantly black system, was purportedly removed by special legislation from the County school system. This, in brief, is the setting of the present litigation.

Scotland Neck's secession would significantly impede desegregation of the County school system. If the secession were effective, the traditionally all-white Scotland Neck school could not be paired with the all-black Brawley school nearby, even though when operated on a segregated basis both schools served the same grades and the same area. Instead of reflecting the racial composition of the students in that area, as they would if the schools were desegregated as part of the same system, Scotland Neck school would be 57 percent white and 43 percent black while Brawley school, less than one mile away, would be 90 percent black and 10 percent white. In addition, by remaining the identifiably "white" school for the area, Scotland Neck would, and in fact did, attract white students

[28] The court of appeals stayed its mandate on April 21, 1971 (App. 1151).

from the surrounding region; thus, the secession would be likely to induce shifts in residential patterns that would tend toward even greater resegregation.

The constitutionality of the carving out of a new school district from a larger, segregated district should be adjudged in light of the state's obligation to convert the dual school system to a unitary system in which the racial segregation of the past is entirely uprooted. Where, as in this case, the new state law impedes disestablishment of the dual school system and the prior existence of the larger district promoted and facilitated the operation of a dual system, creation of new boundaries that bring about significantly less desegregation is, we submit, not constitutionally permissible unless there is a showing of compelling justification.

The court of appeals erred in holding that unless the "primary purpose" of the secession is discriminatory, there is no denial of equal protection of the laws. It is undisputed that one of the purposes of Chapter 31 was to separate a predominantly white group of students from a predominantly black group. The Act clearly had that effect. Even assuming, therefore, that the "primary" purpose or motive of such legislation can accurately be determined by a court, there was no need for such a determination here. For neither in *Brown* v. *Board of Education*, 347 U.S. 483, nor in any subsequent case has this Court distinguished between racial segregation with a predominantly racial purpose and racial segregation with a racial purpose of some lesser degree; the Constitution does not permit a state to be some or just a little bit discriminatory.

The relevant question is, accordingly, whether the state has shown a compelling non-racial justification for impeding desegregation—and thus that the racial effect of its action is non-discriminatory. The purposes of the action it has taken bear on that showing. And if one of the purposes is racial, this necessarily reinforces the stigma of implied racial inferiority that a dual school system fosters and that conversion to a unitary system is designed to eliminate. Thus, if in addition to impeding desegregation, the legislation has a racial purpose, this perpetuates the very evil that *Brown* sought to eliminate.

In this case, the justifications offered for Chapter 31, particularly in view of the available alternatives, are plainly inadequate to overcome the interests of the children of Halifax County in a unitary, nonracial school operation. "Local control," if desired, could have been achieved through creation of a school unit more nearly approximating the racial composition of the County system; in 1965 area residents in fact proposed such a district. Moreover, by narrowing the proposed district to include only Scotland Neck, Chapter 31 conflicts with the state education agency's uncontroverted study and recommendations regarding improvement of the quality of education in the County system. And, of course, the State could have provided for the special financial needs of the Scotland Neck school and of the County system by other means, if this were found necessary. In the face of a history of racial segregation, however, the state cannot constitu-

tionally create a predominantly "white" district for the school to be "improved" and a separate, predominantly black district for the other schools. The district court correctly held that there was no compelling state interest in improving the schools in that way.

ARGUMENT

Creation of new school districts, like gerrymandered zoning within a school district, can perpetuate existing dual operations or impede desegregation efforts. Here the district court found that creation of the Scotland Neck City Administrative Unit interfered with desegregation of the Halifax County schools. In reaching a contrary conclusion, the court of appeals, we submit, did not give due regard to the setting within which Chapter 31 was enacted, the intended effect it would have on the Halifax County schools immediately surrounding Scotland Neck, and the long-range consequences of a separate Scotland Neck unit, which had already attracted white students away from the Halifax County school system.

I

THE SEPARATION OF SCOTLAND NECK FROM THE HALIFAX COUNTY SYSTEM WOULD PERPETUATE VESTIGES OF THE DUAL SCHOOL SYSTEM.

Under Chapter 31 Scotland Neck pulled out of a school system moving reluctantly but definitely toward integration after 15 years of noncompliance with the mandate of *Brown*. It is only against this background that the effect of Chapter 31 can accurately be assessed. See *Green* v. *County School Board of New*

Kent County, 391 U.S. 430, 437.[29] When the schools of Halifax County operated on a dual basis, the town of Scotland Neck and its environs were served by two grade 1–12 schools, Scotland Neck and Brawley, and a few scattered elementary schools.[30] Scotland Neck school served all the white students in the region; the Brawley school, less than one mile away, served only black students.[31] Because of the size of the region, the proximity of the two schools, and the large percentage of whites who lived within the corporate limits of Scotland Neck, it appeared that the only way to convert the dual system to a unitary, nonracial system would be to pair the two grade 1–12 schools.[32] That was the remedy eventually chosen by the Halifax County Board of Education and approved by the district court.[33] See *McDaniel* v. *Barresi*, 402 U.S. 39, 41.

[29] Because of its overriding concern with the motivation for the enactment of Chapter 31 (see point II, *infra*), the court of appeals directed its attention primarily to the previous efforts to obtain a separate system including Scotland Neck rather than to the history showing the likely effect of the Act. See 442 F. 2d at 580 (App. 1110–1111).

[30] See map attached as Appendix C to this brief, p. 45, *infra*. The map shows the grade structure under the court-ordered desegregation plan. See note 25, *supra*. Previously, Scotland Neck and Brawley had served grades 1–12, and the other schools had served grades 1–8. See pp. 3–4, *supra*.

[31] Brawley is located on the County side of the street that serves as the city limits of Scotland Neck. See Appendix C, *infra*, p. 45.

[32] Within the described zone, the operation of the schools was essentially the same as that in *Green* v. *County School Board of New Kent County*, 391 U.S. 430, and *Raney* v. *Board of Education of the Gould School District*, 391 U.S. 443, except for the fact that a large percentage of the white students lived in one particular area (Scotland Neck).

[33] See note 25, *supra*.

Chapter 31 had a profound effect on the Board's ability to disestablish its dual school system. By totally removing the school in Scotland Neck and the students residing there, Chapter 31 insulated Scotland Neck from the imminent desegregation of the County system. Had it been fully implemented, Chapter 31 would have effectively "zoned" most of the black students in the region out of the Scotland Neck school, and zoned the white students residing in Scotland Neck out of Brawley. As a result, the Brawley school would have been left with a 90 percent black student population while the student body at the Scotland Neck school would have been 43 percent black.[34] The doors of the traditionally white-only Scotland Neck school had in the past been closed for the black students in the area, not because of where they resided but because of their race. With Chapter 31 fully in effect those doors would remain closed; the County school board, although charged with the duty to end its dual school system immediately, would be deprived of its authority to open them.

Thus, instead of the Scotland Neck and Brawley schools having nearly the same white-black ratio,[35] reflecting the student population of the area traditionally served by both schools on a segregated basis, under Chapter 31 Scotland Neck would remain the identifiably "white" school for the region. The local

[34] Defendants' Ex. A, dated June 24, 1970, reprinted in App. 12b to brief of intervenors Pattie Black Cotton, *et al.* The disparity would have been even greater under the transfer plan, see p. 11 *supra*.

[35] Under the Interim Plan proposed by the State Department of Public Instruction, the white:black ratio in both schools would have been approximately 1:3 (App. 681–682).

proponents of the Act of course recognized this and, to the students in the area, the message was clear. By August 1969, 350 white students sought transfers from the Halifax County system into Scotland Neck; not a single white student sought to transfer out of Scotland Neck (see *supra*, p. 11). Under the standards applied by federal courts in reviewing school board desegregation plans, therefore, a proposal such as Chapter 31 would not be acceptable. See, *e.g.*, *Henry* v. *Clarksdale Municipal Separate School District*, 409 F. 2d 682 (C.A. 5), certiorari denied, 396 U.S. 940; *United States* v. *Indianola Municipal Separate School District*, 410 F. 2d 626 (C.A. 5), certiorari denied, 396 U.S. 1011. Compare *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 26.[36]

Indeed, the adverse effect of Chapter 31 went beyond even its immediate impact. As the district court held, Chapter 31 was "enacted with the effect of creating a refuge for white students of the Halifax County School system." 314 F. Supp. at 78 (App. 1083). The proponents of the legislation knew that the implementation of Chapter 31 would attract white students to the newly created Scotland Neck system and urged passage of the Act for that reason. The first returns on the transfer arrangement plainly show that

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[36] See also *Davis* v. *Board of School Commissioners of Mobile County*, 402 U.S. 33, where this Court rejected a desegregation plan that treated the western section of the district in isolation from the eastern, and *Green*, *supra*, 391 U.S. at 442, where the Court held that an acceptable desegregation plan must "promise realistically to convert promptly to a system without a 'white' school and a 'Negro' school, but just schools."

Chapter 31 had just that effect. In *Swann* this Court observed that "[p]eople gravitate toward school facilities," 402 U.S. at 20. See also *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836, 876 (C.A. 5), affirmed *en banc*, 380 F. 2d 385, certiorari denied *sub nom. Caddo Parish School Board* v. *United States*, 389 U.S. 840. In light of past experience, of opinions expressed by the proponents of Chapter 31, and the evidence presently available, Scotland Neck's secession would be likely to have a substantial impact on future residential patterns. See *Swann, supra*, 402 U.S. at 20–21. The pressure would be in the direction of a Scotland Neck system approaching roughly the same racial characteristics that would have resulted from the proposed transfer provision, which even the majority of the court of appeals held would tend "toward establishment of a resegregated system." 442 F. 2d at 583 (App. 1117).[37]

II

STATE STATUTES THAT RESTRUCTURE DESEGREGATING SCHOOL SYSTEMS BEAR A HEAVY BURDEN OF JUSTIFICATION IF DESEGREGATION IS THEREBY IMPAIRED

The court of appeals declined to "view the results of severance as if it were part of a desegregation plan for the original system" because the severance was "an action by the Legislature redefining the boundaries of local governmental units" (442 F. 2d at 583;

[37] The free transfer arrangement was thus invalid, as the court of appeals held. *Monroe* v. *Board of Commissioners*, 391 U.S. 450.

App. 1115). But a state's power to "establish, destroy, or reorganize by contraction or expansion its political subdivisions" is not absolute. *Gomillion* v. *Lightfoot*, 364 U.S. 339, 342. Where new school districts have been formed by action of local governmental units under general enabling statutes of a state, the federal courts have properly treated those new districts under the *Green* and *Swann* standards as though they were part of the original district. *Lee and United States* v. *Macon County Board of Education*, 448 F. 2d 746 (C.A. 5); *Burleson* v. *County Board of Election Commissioners of Jefferson County*, 308 F. Supp. 352, 357 (E.D. Ark.), affirmed, 432 F. 2d 1356 (C.A. 8).

Since the obligation to provide a constitutional system of public education is ultimately the state's (see *Griffin* v. *County School Board*, 377 U.S. 218), there is no reason to apply a different standard merely because "rezoning" is brought about by state legislation. Cf. *Bush* v. *Orleans Parish School Board*, 188 F. Supp. 916, 922 (E.D. La.), affirmed, 365 U.S. 569.[18] In both situations the constitutionality of the changes made in the formerly segregated school system are to be judged in light of the state's obligation "to take whatever steps might be necessary to convert to a unitary system [of school operation] in which racial discrimination [is] * * * eliminated root and branch."

[18] It is of no legal consequence that the reorganization involved here was accomplished in part by the referendum process. *Lucas* v. *Forty-Fourth General Assembly*, 377 U.S. 713; *Reitman* v. *Mulkey*, 387 U.S. 369; *Hunter* v. *Erickson*, 393 U.S. 385.

Green, supra, 391 U.S. at 437–438.[39] See also *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 15.

Recently, in declaring unconstitutional a state statute that "would inescapably operate to obstruct the remedies granted by the District Court," this Court stated:

> [I]f a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct the operation of a unitary school system or impede the disestablishing of a dual school system, it must fall; state policy must give way when it operates to hinder vindication of federal constitutional guarantees.

North Carolina State Board of Education v. *Swann*, 402 U.S. 43, 45. It should make no difference that the "state-imposed limitation" is enacted before the school board is actually under order by a federal court to desegregate. This is particularly so in a case such as this where the Halifax County Board had agreed to desegregate and court action became necessary only after the Board repudiated its agreement (see p. 5 *supra*). In view of the state's constitutional duty to uproot racial segregation altogether and at once, see *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19, the relevant question in each instance

[39] In another context of racial discrimination, this Court defined the federal court's power and duty, and thus the state's obligation, as elimination of the "discriminatory effects of the past as well as to bar like discrimination in the future." *Louisiana* v. *United States*, 380 U.S. 145, 154.

is whether the state law hinders disestablishment of the dual school system.

Where, as here, the utilization of a consolidated district facilitated and promoted the operation of a dual system, the creation of new boundaries that would impair disestablishment of the dual system by causing significantly less desegregation should not be permitted to stand unless there is a showing of compelling justification. See *Lee* v. *Macon County Board of Education*, (C.A. 5 No. 30154, June 29, 1971), slip op. at pp. 11–12. Judged by these standards, Chapter 31 plainly denied equal protection of the laws to the school children of Halifax County.[40] For them, Chapter 31 reinforces and perpetuates the stigma of implied racial inferiority that existed while Scotland Neck school was all-white and Brawley was all-black. The vestiges of the dual system can be eliminated only if, for the purpose of desegregation, both schools are treated as part of the same system under which racial segregation existed.

The court of appeals, however, judged the constitutionality of Chapter 31 on the basis of the test it formulated in the *Emporia* case:

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[40] In point III *infra* we contend there has been no showing of compelling justification in this case.

> If the creation of a new school district is designed to further the aim of providing quality education and is attended secondarily by a modification of the racial balance, short of resegregation, the federal courts should not interfere. If, however, the primary purpose for creating a new school district is to retain as much of separation of the races as possible, the state has violated its affirmative constitutional duty to end state supported segregation. [442 F. 2d at 572.]

This "primary purpose" test is, we submit, inconsistent with the test applied by this Court in *North Carolina State Board of Education, supra,* and has no basis in prior decisions of this Court assessing the constitutionality of state laws.

Here the record shows, and both courts below agreed,[41] that one purpose of Chapter 31 was to separate a predominantly white group of students from a larger, predominantly black group of students. The Act clearly had that effect. As with any legislation, there may have been other motives or reasons behind its enactment.[42] But in the sensitive area of school desegregation, the prophesy that there will often be a number of reasons for secession runs a substantial

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[41] 314 F. Supp. at 72 (App. 1073) and 442 F. 2d at 581 (App. 1112).

[42] The possible variety of mixed motives is well illustrated by such cases as *Buchanan* v. *Warley*, 245 U.S. 60 (maintenance of public peace and property values); *Heart of Atlanta Motel* v. *United States*, 379 U.S. 241, 260 (fear of economic loss); and *Hunter* v. *Erickson*, 393 U.S. 385, 392 (need to move slowly in a delicate area of race relations).

risk of becoming self-fulfilling, as Judge Sobeloff suggests in dissent (442 F. 2d at 594; App. 1128). Moreover, in *Palmer* v. *Thompson*, 403 U.S. 217, 225, this Court observed that it "is difficult or impossible for any court to determine the 'sole' or 'dominant' motivation behind the choices of a group of legislators."[43] We add that in the situation presented here it is also unnecessary.

This Court held in *Palmer* that the dominant motive or purpose of the legislators cannot by itself serve to invalidate the legislation. Similarly, their "primary purpose" cannot in itself validate it, at least where, as here, one of the reasons for the enactment was discriminatory.[44] In holding that state-imposed "[s]eparate education facilities are inherently unequal," *Brown* v. *Board of Education*, 347 U.S. 483, 495, this Court did not distinguish between racial segregation with a 40 percent racial purpose and racial segregation with a 60 percent racial purpose. "There is no such thing as a State's legitimately being just a little bit discriminatory." *Poindexter* v. *Louisiana Financial Assistance Commission*, 275 F. Supp. 833, 835

[43] Indeed, the district court here found the task impossible: "In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck * * *." 314 F. Supp. 65, 72 (App. 1073).

[44] See *Palmer* v. *Thompson*, *supra*, 403 U.S. at 226 ("Petitioners have argued strenuously that a city's possible motivations to ensure safety and save money cannot validate an otherwise impermissible state action. This proposition is, of course, true.").

(E.D. La.), affirmed, 389 U.S. 571. Indeed, however innocent its motives, a state may not simply ignore the racial consequences of its actions, for it has long been settled that "[w]hat the Fourteenth Amendment prohibits is racial discrimination * * * whether accomplished ingeniously or ingenuously * * *." *Smith* v. *Texas*, 311 U.S. 128, 132. *See Cooper* v. *Aaron*, 358 U.S. 1, 17.

This is not to say that purpose is irrelevant. To the contrary, if, in addition to having the effect of impeding desegregation, the legislation has a racial purpose, the stigma of implied racial inferiority is not only perpetuated, but intensified. Moreover, the state's burden of coming forward with a compelling justification for its action necessarily draws into question the purpose of the legislation; if one of the purposes is racial, this is a relevant factor in assessing whether the state has met that burden.

In sum, since both courts below found that at least one purpose of Chapter 31 was to separate, for racial reasons, a "more white" school district from a "more black" school district, and since the Act had that effect to the detriment of desegregation of the Halifax County school system, the appropriate standard for measuring compliance with the Fourteenth Amendment and for securing the promise of *Brown I*[45] and *Brown II*[46] is that applied by this Court in reviewing other state laws or actions that impinge

[45] *Brown* v. *Board of Education*, 347 U.S. 483.
[46] *Brown* v. *Board of Education*, 349 U.S. 294.

upon fundamental rights [47] or are based on "suspect criteria." [48] In our view, that standard is no different in substance from the "heavy burden * * * [placed upon a school board] to explain its preference for an apparently less effective method [of desegregation]." *Green, supra,* 391 U.S. at 439. See also *Swann, supra,* 402 U.S. at 26. *Green* and *Swann* and the federal court cases applying those decisions provide, we submit, the informed body of law against which this Court should measure Chapter 31 in light of the setting of the Act, the available alternatives, and the magnitude of the state's interest in pursuing that particular course of action.[49]

As noted above, Chapter 31, if implemented, would impede the establishment of a nonracial, unitary school system for the students of Halifax County. To remedy that situation, the district court could have permitted the continuance of Scotland Neck as a separate system but required that, for the purposes of student and faculty assignment, the schools would be

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[47] *Shapiro* v. *Thompson*, 394 U.S. 618, 634 (interstate travel); *Kramer* v. *Union Free School District No. 15*, 395 U.S. 621, 626, and *Cipriano* v. *City of Houma*, 395 U.S. 701, 704 (voting); *Sherbert* v. *Verner*, 374 U.S. 398, 406 (exercise of religion); *Bates* v. *Little Rock*, 361 U.S. 516, 524 (freedom of association); *Loving* v. *Virginia*, 388 U.S. 1, 11 (right to marriage).

[48] *Korematsu* v. *United States*, 323 U.S. 214, 216, and *McLaughlin* v. *Florida*, 379 U.S. 184, 191–92 (race); *Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 668 (wealth). See also *Bolling* v. *Sharpe*, 347 U.S. 497, 499–500.

[49] See cases cited in footnotes 1 through 5, 442 F. 2d at 593–594 (dissenting opinion of Judge Sobeloff) (App. 1126–1127).

treated as part of the Halifax County system. It is not clear, however, that the citizens of Scotland Neck would want to operate a separate system in those circumstances, and the remedy chosen by the district court—invalidation of the Act—does not preclude their seeking new legislation should they desire to operate in that manner in the future.[50] Either remedy would be appropriate here.

III

THE REASONS GIVEN FOR ESTABLISHING THE SCOTLAND NECK CITY SCHOOL SYSTEM DO NOT SATISFY THE DEFENDANTS' HEAVY BURDEN OF JUSTIFICATION

The defendants asserted three reasons for the creation of the Scotland Neck City Administrative Unit: (1) desire for more local control over the schools; (2) need to increase expenditures for the school; and (3) prevention of anticipated white flight from the public schools. The third reason, of course, provides no ground for continuing a dual system of schools, *Monroe* v. *Board of Commissioners, supra,* 391 U.S. at 459; compare *Buchanan* v. *Warley,* 245 U.S. 60, 81; *Brown* v. *Board of Education,* 349 U.S. 294, 300; *Cooper v. Aaron,* 358 U.S. 1, 16; *Wright* v. *Georgia,*

[50] Even to this limited degree, Scotland Neck is not forever "locked-in" to the Halifax County school system. When desegregation of the County system takes place and the subsequent passage of time cleanses the taint of racial segregation, the situation will of course be different. But, as we have emphasized, the validity of Chapter 31 should now be determined in light of the fact that it came in the wake of 15 years of failure to comply with *Brown.*

373 U.S. 284, 291–293, and clearly does not justify the racial effect of Chapter 31.

Especially in light of the alternatives available, the other two reasons are, in our view, also plainly insufficient as justification to override the constitutional right of the students of Halifax County to a school system operated entirely without racial discrimination. In assessing the state interest involved, it is significant that the proponents' desire for "local control" apparently never arose until 1965,[51] and that sufficient impetus for enabling legislation was not obtained until the eve of full-scale desegregation in 1969. Moreover, the legislation proposed in 1965 encompassed an area larger than the limits of the City of Scotland Neck, including the nearby Brawley School, and the resulting student population would have nearly approached the racial composition of the County as a whole.[52] By narrowing the area to be covered, the defendants have chosen to operate a school district more clearly of a size directly in conflict with the recommendations of the state education agency.[53]

While the defendants contend that with local control they could spend more money on their schools and thus improve the quality of education, they did not have any actual plans for spending the extra money nor had they made any advance studies of the educational advantages, if any, of the new district (see 442 F. 2d at 599, App 1136–1137). That failure is especially signif-

[51] See not 15, *supra*.
[52] *Ibid*.
[53] See p. 5–7, *supra*.

icant since they did not have sufficient facilities to accommodate even the small number of students in the new district.[54] Normally, such a choice would be explicable only in terms of race. *Lee* v. *Macon County Board of Education* 267 F. Supp. 458, 472 (M.D. Ala.), *affirmed sub nom. Wallace* v. *United States*, 389 U.S. 215.

In any event, we are dealing here with legislation by the state; and it is clear that, whatever options were available to the local proponents, the state legislature could have dealt with the Scotland Neck problem by other means. Cf. *Griffin* v. *County School Board*, 377 U.S. 218. Indeed, the state education agency suggested a compelling interest in keeping Scotland Neck part of the Halifax County system.[55] Moreover, if the object is to improve the Scotland Neck schools, it would indeed be an anomaly if, in the face of a past history of racially disparate educational opportunities, see *Gaston County* v. *United States*, 395 U.S. 285, the state legislature could "by the simple expedient of labeling the two sets of schools as separate districts," 442 F. 2d at 598 (App. 1134), create a predominantly white district for schools to be "improved" and a separate, predominantly black district for the other schools. *Plessy* v. *Ferguson*, 163 U.S. 537. On this record, the district court held that there was no state interest in improving the schools in that way. We be-

[54] See pp. 11–12, *supra*.

[55] The 1968 State Survey of Halifax County schools recommended precisely the opposite result to that achieved by Chapter 31. See pp. 5–7, *supra*.

lieve that finding was amply justified and that the court's judgment invalidating Chapter 31 should have been affirmed.

CONCLUSION

For the foregoing reasons, the judgment of the court of appeals should be reversed.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

DAVID L. NORMAN,
Assistant Attorney General.

LAWRENCE G. WALLACE,
Deputy Solicitor General.

A. RAYMOND RANDOLPH, JR.
Assistant to the Solicitor General.

BRIAN K. LANDSBERG,
THOMAS M. KEELING,
Attorneys.

DECEMBER 1971.

APPENDIX A

Section 407 of the Civil Rights Act of 1964, 42 U.S.C. 2000c–6, provides:

§ 2000c–6. Civil actions by the Attorney General.

(a) Complaint; certification; notice to school board or college authority; institution of civil action; relief requested; jurisdiction; transportation of pupils to achieve racial balance; judicial power to insure compliance with constitutional standards; impleading additional parties as defendants.

Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin.

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and

after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings.

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) "Parent" and "complaint" defined.

The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

Appendix B

Chapter 31 of the 1969 Session Laws of North Carolina, is entitled and provides:

"An Act to Improve and Provide Public Schools of a Higher Standard for the Residents of Scotland Neck in Halifax County, to Establish the Scotland Neck City Administrative Unit, to Provide for the Administration of the Public Schools in Said Administrative Unit, to Levy a Special Tax for the Public Schools of Said Administrative Unit, All of Which Shall Be Subject to the Approval of the Voters in a Referendum or Special Election

"Section 1. There is hereby classified and established a public school administrative unit to be known and designated as the Scotland Neck City Administrative Unit which shall consist of the territory or area lying and being within the boundaries or corporate limits of the Town of Scotland Neck in Halifax County, and the boundaries of said Scotland Neck City Administrative Unit shall be coterminous with the present corporate limits or boundaries of the Town of Scotland Neck. The governing board of said Scotland Neck City Administrative Unit shall be known and designated as the Scotland Neck City Board of Education, and said Scotland Neck City Board of Education (hereinafter referred to as: Board) shall have and exercise all of the powers, duties, privileges and authority granted and applicable to city administrative units and city boards of education as set forth in Chapter 115 of the General Statutes, as amended.

"SEC. 2. The Board shall consist of five members appointed by the governing authority of the Town of Scotland Neck, and said five members shall hold office until the next regular municipal election of the Town of Scotland Neck to be held in May, 1971. At the regular election for Mayor and Commissioners of the Town of Scotland Neck to be held in May 1971, there shall be elected five members of the Board, and three persons so elected who receive the highest number of votes shall hold office for four years and he two persons elected who receive the next highest number of votes shall hold office for two years, and thereafter all members of the Board so elected, as successors, shall hold office for four years. All members of the Board shall hold their offices until their successors are elected and qualified. All members of the Board shall be eligible to hold public office as required by the Constitution and laws of the State.

"SEC. 3. All members of the Board shall be elected by the qualified voters of the Town of Scotland Neck and said election shall be held and conducted by the governing authority of the Town of Scotland Neck and by its election officials and pursuant to the same laws, rules and regulations as are applicable to the election of the municipal officials of the Town of Scotland Neck, and the results shall be certified in the same manner. The election of members of the Board shall be held at the same time and place as applicable to the election of the Mayor and Board of Commissioners of the Town of Scotland Neck and in accordance with expiration of terms of office of members of the Board. The members of the Board so elected shall be inducted into office on the first Monday following the date of election, and the expense of th election of the members of the Board shall be paid by the Board.

"SEC. 4. At the first meeting of the Board appointed as above set forth and of a new

Board elected as herein provided, the Board shall organize by electing one of its members as chairman for a period of one year, or until his successor is elected and qualified. The chairman shall preside at the meetings of the Board, and in the event of his absence or sickness, the Board may appoint one of its members as temporary chairman. The Scotland Neck City Superintendent of Schools shall be ex officio secretary to his Board and shall keep the minutes of the Board but shall have no vote. If there exists a vacancy in the office of Superintendent, then the Board may appoint one of its members to serve temporarily as secretary to the Board. All vacancies in the membership of the Board by death, resignation, removal, change of residence or otherwise shall be filled by appointment by the governing authority of the Town of Scotland Neck of a person to serve for the unexpired term and until the next regular election for members of the Board when a successor shall be elected.

"SEC. 5. All public school property, both real and personal, and all buildings, facilities, and equipment used for public school purposes, located within the corporate limits of Scotland Neck and within the boundaries set forth in Section 1 of this Act, and all records, books, moneys budgeted for said facilities, accounts, papers, documents and property of any description, shall become the property of Scotland Neck City Administrative Unit or the Board; all real estate belonging to the public schools located within the above-described boundaries is hereby granted, made over to, and automatically by force of this Act conveyed to the Board from the County public school authorities. The Board of Education of Halifax County is authorized and directed to execute any and all deeds, bills of sale, assignments or other documents that may be necessary to completely vest title to all such property in the Board.

"SEC. 6. Subject to the approval of the voters residing within the boundaries set forth in Section 1 of this Act, or within the corporate limits of the Town of Scotland Neck, as hereinafter provided, the governing authority of the Town of Scotland Neck, in addition to all other taxes, is authorized and directed to levy annually a supplemental tax not to exceed Fifty Cents (50¢) on each One Hundred ($100.00) Dollars of the assessed value of the real and personal property taxable in said Town of Scotland Neck. The amount or rate of said tax shall be determined by the Board and said tax shall be collected by the Tax Collector of the Town of Scotland Neck and paid to the Treasurer of the Board. The Board may use the proceeds of the tax so collected to supplement any object or item in the school budget as fixed by law or to supplement any object or item in the Current Expense Fund or Capital Outlay Fund as fixed by law.

"SEC. 7. Within ten days from the date of the ratification of this Act it shall be the duty of the governing authority of the Town of Scotland Neck to call a referendum or special election upon the question of whether or not said Scotland Neck City Administrative Unit and its administrative board shall be established and whether or not the special tax herein provided shall be levied and collected for the purposes herein provided. The notice of the special election shall be published once a week for two successive weeks in some newspaper published in the Town of Scotland Neck or having a general circulation in the Town of Scotland Neck. The notice shall contain a brief statement of the purpose of the special election, the area in which it shall be held, and that a vote by a majority of those voting in favor of this Act will establish the Scotland Neck City Administrative Unit and its Administrative Board as

herein set forth, and that an annual tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property, according to each One Hundred Dollars ($100.00) valuation, the rate to be fixed by the Board, will be levied as a supplemental tax in the Town of Scotland Neck, for the purpose of supplementing any lawful public school budgetary item. A new registration of voters shall not be required and in all respects the laws and regulations under which the municipal elections of the Town of Scotland Neck are held shall apply to said special election. The governing authority of the Town of Scotland Neck shall have the authority to enact reasonable rules and regulations for the necessary election books, records and other documents for such special election and to fix the necessary details of said special election.

"SEC. 8. In said referendum or special election a ballot in form substantially as follows shall be used: VOTE FOR ONE:

(☐) FOR creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and for supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

(☐) AGAINST creating and establishing Scotland Neck City Administrative Unit with administrative Board to operate public schools of said Unit and against supplemental tax not to exceed Fifty Cents (50¢) on the assessed valuation of real and personal property according to each One Hundred Dollars ($100.00) valuation for objects of school budget.

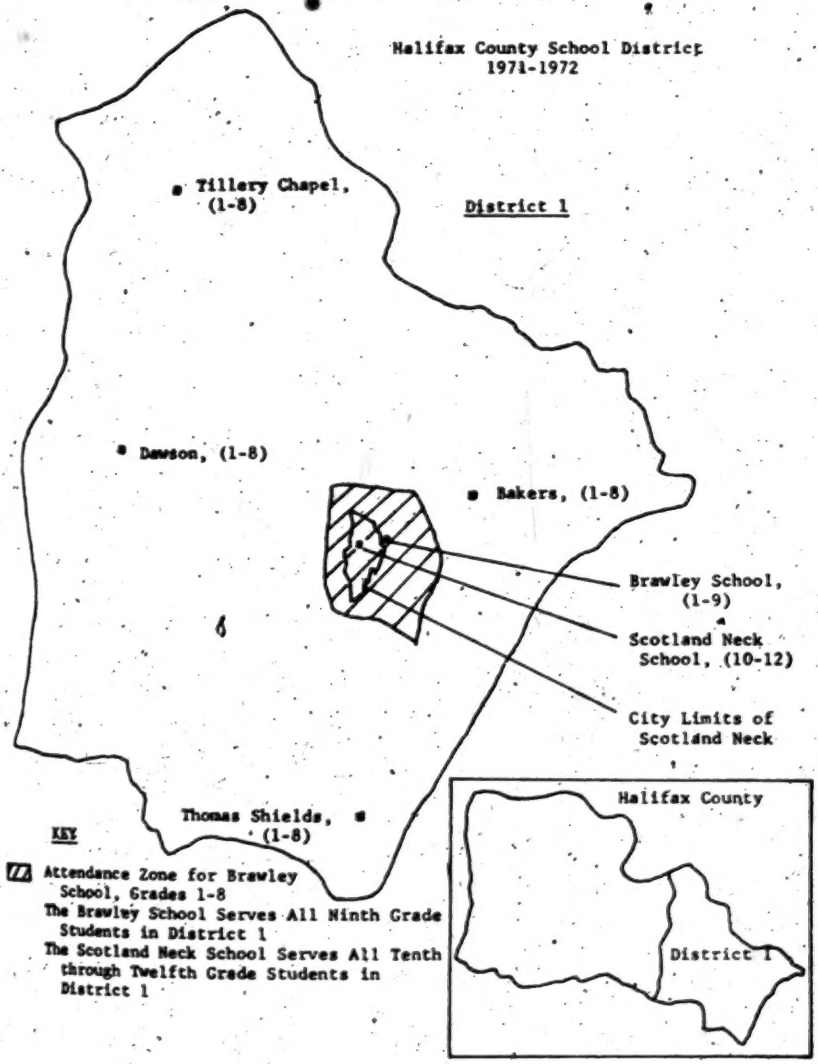
"If a majority of the qualified voters voting at such referendum or special election vote in favor of establishing Scotland Neck City Administrative Unit, for creation of administrative Board to operate public schools of said Unit and for special supplemental tax as herein set forth, then this Act shall become effective and operative as to all its provisions upon the date said special election results are canvassed and the result judicially determined, otherwise to be null and void. The expense of said referendum or special election shall be paid by the governing authority of the Town of Scotland Neck but if said Unit and Board are established, then said Town of Scotland Neck shall be reimbursed by the Board for said expense as soon as possible.

"SEC. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

"SEC. 10. This Act shall be in full force and effect according to its provisions from and after its ratification."

APPENDIX C

ATTENDANCE ZONES FOR BRAWLEY SCHOOL AND SCOTLAND NECK SCHOOL



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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-187

Supreme Court, U.S.
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E. ROBERT SEAVER, CLERK

PATTIE BLACK COTTON, *et al.*,

Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, *et al.*

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR PETITIONERS

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN J. CHACHKIN
10 Columbus Circle
New York, N. Y. 10019

J. LEVONNE CHAMBERS
237 West Trade Street
Charlotte, N. C. 28202

ADAM STEIN
157 East Rosemary Street
Chapel Hill, N. C. 27514

JAMES R. WALKER, JR.
501 West Third Street
Weldon, N. C. 27890

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, N. C. 27601

Attorneys for Petitioners

TABLE OF CONTENTS

	PAGE
Opinions Below	1
Jurisdiction	2
Questions Presented	2
Constitutional and Statutory Provisions Involved	2
Statement	2
1. Proceedings Below	2
2. The Public Schools in Halifax County and Scotland Neck Prior to 1968-69	6
3. Department of Justice Intervention	8
4. The State Consolidation and Desegregation Plan	9
5. Chapter 31—The Scotland Neck Bill	11
a. The Purpose of Chapter 31	12
b. The Effects of Chapter 31	14
6. Events Subsequent to the Preliminary Injunction	18
ARGUMENT—	
The District Court Correctly Enjoined the Division of Halifax County's System into Two Separate Units Where the Changed Boundaries Would Impede Desegregation and Where Formerly Ignoring Such Boundaries Was Instrumental in Promoting Segregation	20

PAGE

Introduction and Summary of Argument 20

I. The District Court Correctly Evaluated the Proposed Scotland Neck Secession in Terms of Its Effectiveness in Dismantling School Segregation in Eastern Halifax County 22

II. The Separation of Scotland Neck From the Halifax County School System Impedes Desegregation of the Schools Involved 33

A. Organization of the Dual System in Scotland Neck Area 33

B. The Interim Plan 38

C. The Assignment Pattern If Scotland Neck Secedes; the Doughnut-Shaped Zone for Brawley 39

D. The Effect of Secession on Brawley and District I 43

E. The Interdistrict Transfer Plans 47

F. Other Effects of the Secession of Scotland Neck 49

CONCLUSION 53

Table of Authorities

Cases: PAGE

Alexander v. Holmes County Board of Education, 396 U.S. 19 (1969) 23

Aytch v. Mitchell, 320 F. Supp. 1372 (E.D. Ark. 1971) 29

Brown v. Board of Education, 347 U.S. 483 (1954) 20, 22, 29, 33, 46, 51

Brown v. Board of Education, 349 U.S. 294 (1955) 20, 23, 29, 33

Brown v. South Carolina State Board of Education, 296 F. Supp. 199 (D. S.C. 1968), aff'd, 393 U.S. 222 (1968) 50

Brunson v. Board of Trustees of School District No. 1, Clarendon County, S. C., 429 F.2d 830 (4th Cir. 1970) 51

Buckner v. County School Board of Greene County, Va., 332 F.2d 452 (4th Cir. 1964) 36

Burleson v. County Board of Election Commissioners of Jefferson County, 308 F. Supp. 352 (E.D. Ark. 1970), affirmed, 432 F.2d 1356 (8th Cir. 1970) 29

Bush v. Orleans Parish School Board, 190 F. Supp. 861 (E.D. La. 1960), affirmed sub nom. City of New Orleans v. Bush, 366 U.S. 212 (1961) 28

Carter v. West Feliciana Parish School Board, 396 U.S. 290 (1970) 22

Coffey v. State Education Finance Commission, 296 F. Supp. 1389 (S.D. Miss. 1969) 50

Cooper v. Aaron, 358 U.S. 1 (1958) 28

PAGE

Corbin v. County School Board of Pulaski County, Va., 177 F.2d 924 (4th Cir. 1949) 36

Crisp v. County School Board of Pulaski County, Va. (W.D. Va. 1960), 5 Race Rel. L. Rep. 721 36

Davis v. Board of School Commissioners of Mobile, 402 U.S. 33 (1971) 21, 22, 24, 39

Evans v. Buchanan, 207 F. Supp. 83 (D. Del. 1962) 29

Goins v. County School Board of Grayson County, Va., 186 F. Supp. 753 (W.D. Va. 1960), stay denied, 282 F.2d 343 (4th Cir. 1960) 36

Gomillion v. Lightfoot, 364 U.S. 339 (1960) 23, 39

Green v. County School Board of New Kent County, 391 U.S. 430 (1968) 6, 8, 12, 16, 22, 23, 25, 32, 37

Griffin v. Board of Education of Yancey County, 186 F. Supp. 511 (W.D. N.C. 1960) 36

Griffin v. School Board, 377 U.S. 218 (1964) 28, 50

Griffin v. State Board of Education, 296 F. Supp. 1178 (E.D. Va. 1969) 50

Hall v. St. Helena Parish School Board, 197 F. Supp. 649 (E.D. La. 1961), aff'd, 368 U.S. 515 50

Haney v. County Board of Education of Sevier County, Ark., 410 F.2d 920 (8th Cir. 1969) 29

Hawkins v. North Carolina State Board of Education, 11 Race Rel. L. Rep. 745 (W.D. N.C., March 31, 1966) 50

Jenkins v. Township of Morris School District, 58 N.J. 483, 279 A.2d 619 (1971) 29

PAGE

Lee v. Macon County Board of Education, 267 F. Supp. 458 (M.D. Ala. 1967), aff'd, sub nom. Wallace v. United States, 389 U.S. 215 (1967) 50

Lee v. Macon County Board of Education, 448 F.2d 746 (5th Cir. 1971) 20, 29, 30, 31, 52

Lee v. Nyquist, 318 F. Supp. 710 (W.D. N.Y. 1970, affirmed per curiam, 402 U.S. 935 (1971) 49

Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938) 36

Monroe v. Board of Commissioners, 391 U.S. 450 (1968) 22

North Carolina State Board of Education v. Swann, 402 U.S. 43 (1971) 21, 30, 49

Poindexter v. Louisiana Financial Assistance Commission, 275 F. Supp. 833 (E.D. La. 1967), aff'd 389 U.S. 571 (1968) 50

Poindexter v. Louisiana Financial Assistance Commission, 296 F. Supp. 686 (E.D. La. 1968), aff'd, 393 U.S. 16 (1968) 50

Raney v. Board of Education, 391 U.S. 443 (1968) 22, 37

School Board of Warren County, Va. v. Kilby, 259 F.2d 497 (4th Cir. 1958) 36

Sloan v. Tenth School District of Wilson County, Tenn., 433 F.2d 587 (6th Cir. 1970) 29

Stout v. Jefferson County Board of Education, 448 F.2d 403 (5th Cir. 1971) 20, 29, 30

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971) 20, 21, 22, 24, 42, 44, 45, 46, 49, 52

PAGE

Turner v. Littleton Lake Gaston School District, 442 F.2d 584 (4th Cir. 1971) 5, 26

Turner v. Warren County Board of Education, 313 F. Supp. 380 (E.D. N.C. 1970), affirmed sub nom. Turner v. Littleton Lake Gaston School District, 442 F.2d 584 (4th Cir. 1971) 16, 29

United States v. Bright Star School District #6, unreported, W.D. Ark., No. T-69-C-24, April 15, 1970 30

United States v. Crockett County Board of Education, unreported, W.D. Tenn., C.A. No. 1663, May 15, 1967 30

United States v. Halifax County Board of Education, 314 F. Supp. 65 (E.D. N.C. 1970) 1, 9, 13, 14, 17, 25

United States v. Louisiana, 225 F. Supp. 353 (E.D. La. 1963), affirmed, 380 U.S. 145 (1965) 42

United States v. Scotland Neck City Board of Education, No. 70-130 2

United States v. Scotland Neck City Board of Education, 442 F.2d 575 (4th Cir. 1971) 1, 26, 29

United States v. Texas, 321 F. Supp. 1043 (E.D. Tex. 1970), affirmed, 447 F.2d 441 (5th Cir. 1971) 29

United States v. Tunica County School District, 323 F. Supp. 1019 (N.D. Miss. 1970), aff'd, 440 F.2d 1236 (5th Cir. 1971) 50

Walker v. County School Board of Floyd County, Va. (W.D. Va. 1960), 5 Race Rel. L. Rep. 714 36

Wright v. Council of City of Emporia, 442 F.2d 570 (4th Cir. 1971) 5, 26, 29, 41, 42

Wright v. Council of City of Emporia, No. 70-188 ..... 4, 27

Statutes: PAGE

28 U.S.C. section 1254(1) 2

1969 Session Laws of North Carolina, Chapter 31 ..2, 3, 4, 27

N.C. Gen. Stat. § 115-163 15

Other Authorities:

U. S. Bureau of the Census, U. S. Census of Population: 1970 GENERAL POPULATION CHARACTERISTICS, North Carolina 40

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-187

PATTIE BLACK COTTON, *et al.*,

Petitioners,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, *et al.*

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR PETITIONERS

Opinions Below

The opinion of the Court of Appeals (A. 1104) is reported *sub nom. United States* v. *Scotland Neck City Board of Education*, 442 F.2d 575 (4th Cir. 1971). Dissenting opinions by Judges Winter and Sobeloff are reported at 442 F.2d 588 and 442 F.2d 593.

The opinion of the United States District Court for the Eastern District of North Carolina (A. 1062) is reported *sub nom. United States* v. *Halifax County Board of Education*, 314 F. Supp. 65 (E.D. N.C. 1970).

Jurisdiction

The judgment of the Court of Appeals was entered March 23, 1971. The petition for certiorari was filed May 20, 1971, and was granted on October 12, 1971. The case was consolidated with *United States* v. *Scotland Neck City Board of Education*, No. 70-130, in which certiorari was also granted October 12, 1971. The jurisdiction of the Court rests on 28 U.S.C. section 1254(1).

Questions Presented

Whether the Court of Appeals erred by holding that new school districts may be formed which divide a unit that is faced with the duty to desegregate a dual system where the changed boundaries result in less desegregation and where formerly the absence of such boundaries was instrumental in promoting segregation.

Constitutional and Statutory Provisions Involved

1. This case involves the constitutionality of Chapter 31 of the 1969 Session Laws of North Carolina which is set out in the appendix to this brief, pp. 16b, *et seq.*

2. The case also involves Section 1 of the Fourteenth Amendment to the Constitution of the United States.

Statement

1. *Proceedings Below*

This case (consolidated here with No. 70-130, *United States* v. *Scotland Neck City Board of Education*) involves the desegregation of the public schools operated by the Halifax County Board of Education in North Carolina.

The school system of some eighteen schools and slightly more than 10,600 pupils (in 1968-69) embraces a rural area and a number of small towns such as Scotland Neck, a community with about 695 resident pupils. The county has long maintained a dual system of racially segregated schools, and while the county school board was engaged in negotiating with the United States Department of Justice about a desegregation plan, local citizens obtained passage of Chapter 31 of the 1969 Session Laws of North Carolina which created a new independent school system for the town of Scotland Neck and thus separated the town and its one school from the county school system and its desegregation plans. This case involves the constitutionality of Chapter 31 in the context of the desegregation process.

The complaint (A. 26 and amendment at A. 62) was filed by the United States on June 16, 1969, in the Eastern District of North Carolina seeking the desegregation of the schools by a more effective method than the freedom of choice plan then in effect, and seeking an injunction against Chapter 31 on the ground that it interfered with desegregation of the public schools of Halifax County and denied equal protection of the laws to Negro students. Petitioners Patty Black Cotton, et al. are Negro pupils, parents and teachers who were permitted to intervene as plaintiffs. The Halifax County Board of Education, the Scotland Neck City Board of Education, the Mayor and Commissioners of Scotland Neck and the Town of Scotland Neck were named as defendants, and several other state and local officials were later added as defendants.

After a three day hearing the district court entered a preliminary injunction on August 25, 1969, restraining implementation of Chapter 31 (A. 790). On May 26, 1970, a final injunction was entered (A. 1084), the district court

holding that Chapter 31 was unconstitutional under the Equal Protection Clause of the Fourteenth Amendment because it "was enacted with the effect of creating a refuge for white students of the Halifax County School system" (A. 1083). The district court order was accompanied by a long and detailed opinion setting forth complete findings of fact. The opinion by Judge Larkins was concurred in by Chief Judge Butler who sat to hear a related case involving similar questions relating to the creation of two new school districts—Littleton-Lake Gaston and Warrenton—in neighboring Warren County located just west of Halifax. (For the general location of the several districts see Map I in Petitioners' Brief Appendix of Maps, Tables and Statutes.[1] Map I also shows nearby Emporia, Virginia involved in a companion case, *Wright* v. *Council of City of Emporia*, No. 70-188.)

The Fourth Circuit, sitting *en banc*, reversed the injunction, with Judges Sobeloff and Winter dissenting. The opinion of the court by Judge Craven upheld Chapter 31, concluding that the primary purpose of the law "was not to invidiously discriminate against black students." (442 F.2d at 582.) In the companion case involving Emporia, Virginia, Judge Craven set out the legal rule applied to decide these cases in the following language:

> If the creation of a new school district is designed to further the aim of providing quality education and is attended secondarily by a modification of the racial balance, short of resegregation, the federal courts should not interfere. If, however, the primary purpose for creating a new school district is to retain as much of separation of the races as possible, the state has violated its affirmative constitutional duty

[1] This Brief Appendix is hereinafter referred to as "Maps and Tables."

to end state supported school segregation. The test is much easier to state that it is to apply. (*Wright* v. *Council of City of Emporia*, 442 F.2d 570, 572 (4th Cir. 1971).)

The Court of Appeals held that the effect of the separation of Scotland Neck schools and students on the desegregation of the remainder of the county system was "minimal" and that the shift in racial percentages was "hardly a substantial change" (442 F.2d at 582).

The Court of Appeals held that the transfer plan adopted by the Scotland Neck school board immediately after its creation—by which 350 white and 10 black pupils would transfer into the unit from Halifax County and 44 black pupils would transfer out of Scotland Neck to attend Brawley School—"would have tended toward the establishment of a resegregated system" and did violate the equal protection clause of the Fourteenth Amendment (442 F.2d at 583), but found the transfer plan of "no relevance" to the constitutionality of Chapter 31 because it said that the legislature did not know that such a plan would be adopted (442 F.2d at 581-582, note 3). In so doing, the Court of Appeals ignored findings to the contrary by the district court (314 F. Supp. at 69).

The Court of Appeals' contradiction of the district court finding in this regard is significant since the Court of Appeals upheld an injunction in the companion case involving Littleton-Lake Gaston because the record in that case indicated legislative awareness of a comparable transfer scheme. *Turner* v. *Littleton Lake Gaston School District*, 442 F.2d 584 (4th Cir. 1971).

Petitions for certiorari filed by the United States and the intervening plaintiffs were granted October 12, 1971.

The Court of Appeals has stayed the effectiveness of its mandate pending this Courts' decision, and thus the implementation of Chapter 31 is still enjoined.

2. *The Public Schools in Halifax County and Scotland Neck Prior to 1968-69*

Until the creation of the Scotland Neck Administrative Unit by the North Carolina General Assembly on March 3, 1969 and by the vote of the residents of Scotland Neck on April 8, 1969, the Halifax County Board of Education administered all of the schools in the county except for two areas on the northern border of the County. (See Map II, Maps and Tables). During the 1968-69 school year there were 10,655 students: 2,357 (22.1%) white, 8,196 (76.9%) black and 105 (1%) Indian (Table I, Maps and Tables).

In 1964, for the first time, six black students were permitted to attend a formerly all-white school under a limited free choice policy. When this Court decided *Green* v. *County School Board of New Kent County,* 391 U.S. 430 (1968), only 3% of the black children were attending school with whites pursuant to the Board's desegregation program. (314 F. Supp. at 67).

At the time of *Green,* and a year later when this litigation commenced, the County operated four schools which housed all of its 2,357 white students and a few blacks, each offering grades 1 through 12. They were: the Scotland Neck School, located in the middle of the eastern portion of the county, Enfield School about 16 miles west of Scotland Neck, the Aurelian Springs School some 16 miles northwest of Enfield and William R. Davie approximately 8 miles north of Aurelian Springs. (See Map II, Maps and Tables).

Superimposed upon the system of schools operated for white children was a network of 14 black schools where in

October, 1968 7,446 or 90.8% of the County's black pupils attended school (Table I, Maps and Tables). In the eastern portion of the county, for example, about ¾ of a mile from the Scotland Neck School and just outside the town limits to the east is the Brawley School[2] (A. 233). Brawley, like Scotland Neck was a school serving grades 1 through 12. At the high school level—grades 9 through 12—Brawley drew students from the same geographical areas as the Scotland Neck School (A. 273-276; 149; 821). White students from the outlying county areas rode buses to the Town of Scotland Neck and went to the Scotland Neck School. Black pupils rode separate buses from the same surrounding area to the Town of Scotland Neck and went to the Brawley School. White students in the town and nearby areas walked to the Scotland Neck School. Black children in the Town of Scotland Neck and close by walked to Brawley.

In addition to Brawley, there are four black elementary schools (grades 1 to 8) in the areas surrounding the Town of Scotland Neck. Dawson is to the east, Tillery Chapel to the north, Bakers to the west and Thomas Shield to the south (Map II, Maps and Tables). At the elementary level, Brawley served the Town of Scotland Neck and its immediate environs. The black high school students in this area had traditionally gone to Brawley. All of the white children in the areas served by these five black schools had always gone to the Scotland Neck School until August, 1970 (A. 273-276; 149).

[2] The Scotland Neck School is on the west side of town. The town line separates ten acres of its campus and one four-classroom building which are located in the County. After the new unit was created arrangements were made to recapture these facilities for the use of the Scotland Neck Unit by extending the boundaries of the new unit through administrative action, and by leasing the building from Halifax County for $1.00 per year. (314 F. Supp. at 70).

This case involves the constitutional duty of North Carolina officials to desegregate the six schools in the Scotland Neck-Brawley area.

Scotland Neck is a town of less than 3,000 people. It is one mile wide at its widest and two miles long at its longest[3] (Map IV, Maps and Tables). It has a resident school population of 695 of which 399 (57.4%) are white and 296 (42.6%) black (Table IV, Maps and Tables). In October, 1968, the total attendance at the schools in the Scotland Neck-Brawley area was 3,302: 786 (23.8%) white and 2,516 (76.2%) black (Table I, Maps and Tables). This very nearly parallels the black/white ratio of the Halifax County Unit as a whole which was 22.1% white and 76.9% black (*Ibid.*).

3. *Department of Justice Intervention*

Following *Green*, the Department of Justice on July 27, 1968 sent a letter informing the Halifax County Board of Education that it would institute suit unless prompt action were taken to dismantle the dual school system in Halifax County. The negotiations which ensued produced an agreement that the Board would take some desegregation steps for the 1968-69 school year and would submit a plan for the complete disestablishment of its dual system by early 1969 to be fully implemented for the 1969-70 school year. The steps taken for 1968-69 were a few faculty transfers and the transfers of grades 7 and 8 from three black schools, and grade 7 from a fourth to four neighboring white schools. As part of the plan, grades 7 and 8 were moved from Brawley to Scotland Neck. No white students were assigned to Brawley or to any other black school in the county.

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[3] It is less than ¾ of a mile wide at its northern end where the Scotland Neck and Brawley Schools are located (Map IV, Maps and Tables).

In October, 1968, the Halifax School Board made a report to the Department of Health, Education and Welfare. Its report showed student and teacher assignments at the schools in the Scotland Neck-Brawley area as follows (Table I, Maps and Tables):

Grades	School	Pupils				Teachers	
		White	Black	Total	% Black	W	B
1–12	Scotland Neck	786	193	979	19.7%	36	10
1–6; 9–12	Brawley	0	1106	1106	100%	0	40
1–8	Bakers	0	283	283	100%	1	12
1–8	Thomas Shields	0	203	203	100%	0	9
1–8	Dawson	0	459	459	100%	2	16
1–8	Tillery Chapel	0	272	272	100%	0	11
	Totals	786	2,516	3,302	76.2%	39	98

Of the 193 black students assigned to Scotland Neck, 153 were the students in grades 7 and 8 who had been transferred from Brawley (A. 732). The rest of the students at Scotland Neck and the five other all-black schools had been assigned by freedom of choice. Only 40 or about 1½% of the black students in this area who were assigned by free choice ended up in school with white children. No white child chose any of the five black schools.

4. *The State Consolidation and Desegregation Plan*

On July 1, 1968 the Halifax Board wrote to the North Carolina Department of Public Instruction requesting that it propose to the Board a desegregation plan which would provide "the most effective organizational patterns for the county schools in order to insure the best education possible for the children" (314 F. Supp. at 68). A committee of staff members of the State Department of Public Instruction and other educators made a detailed survey of the system and made recommendations to the local board

(A. 587). The committee was directed by Dr. J. L. Pierce, Director of the Division of School Planning of the state department who was a former teacher, coach and principal at the Scotland Neck School (A. 972).

The committee made several long range recommendations and also made recommendations for an Interim Plan to meet immediate educational needs. The principal long range recommendations were to construct two new high schools to replace the nine high schools operating in the county (A. 597-605). To be implemented, the long range plan would require political and financial arrangements that would take some time to accomplish.

The Interim Plan (A. 606) was designed for immediate implementation. It proposed an organization of the schools which would effectively break up the classical features of the dual structure in Halifax County. It was essentially a consolidation plan to eliminate the duplication inherent in a typical rural segregated school system. Thus, in the small towns such as Scotland Neck and Enfield, where there had been white schools and black schools offering the same grades and serving the same areas, the schools were consolidated. The result of the plan was the elimination of five of the nine high schools and the creation of attendance zones for the elementary schools.

In the Scotland Neck-Brawley area which was designated District I, a high school district was established which covered the same area formerly served by the Scotland Neck and Brawley schools (Map III, Maps and Tables). The State recommended that all 10th through 12th grade students (white and black) in District I attend Scotland Neck and that all 8th and 9th grade students attend Brawley. At the elementary level, students in grades 1 through 7 from the Town of Scotland Neck and its immediate en-

virons would go to Brawley and the junior high site at Scotland Neck (A. 606). Elementary zone lines were to be established for grades 1-7 around the four outlying elementary schools (Bakers, Dawson, Thomas Shields and Tillery Chapel).

The state department completed its survey and recommendations in September, 1968 (A. 233-234). On December 17, 1968, the Board prepared a Table projecting student assignments by race for the state department's Interim Plan (A. 681-682). These December, 1968 projections as compared to October, 1968 percentages and grade organizations are as follows (see Tables I and II, Maps and Tables):

District I						1968-69	
Grades	School	Pupils				Grades	% Black
		White	Black	Total	% Black		
5-6; 10-12	Scotland Neck	325	640	965	66.3%	1-12	19.8
1-4; 7-9	Brawley	330	740	1070	69.2%	1-12	100
1-8	Bakers	6	387	393	98.5%	1-8	100
1-8	Thomas Shields	68	340	408	83.3%	1-8	100
1-8	Dawson	44	570	614	92.8%	1-8	100
1-8	Tillery Chapel	31	378	409	92.4%	1-8	100
	Totals	804	3055	3859	79.2%		

The State Plan was not submitted to the Department of Justice. Instead, the Scotland Neck Bill was introduced into the legislature in January, 1969 and a free choice plan was submitted to the Department of Justice in February.

5. *Chapter 31—The Scotland Neck Bill*

In the summer of 1968, Scotland Neck residents became fully aware that major changes in school assignments would

be finally required. They learned through the press that *Green* had prompted the Halifax Board to seek recommendations for a desegregation plan from the State Department of Public Instruction. The Scotland Neck *Commonwealth* gave prominent coverage to the negotiations with the Government. On August 9, 1968, under a headline "County Ordered to End Dual System," the paper reported that freedom of choice was not desegregating the schools and there are available "'other ways, such as unitary geographic attendance zoning or some form of grade reorganization or consolidation, promising speedier and more effective conversion to a unitary system'" (A. 761).

A week later, the paper reported the terms of the agreement between the Board and the Government. "[S]eventh and eighth grades of Scotland Neck and Brawley schools will be consolidated for the 1968-69 term into one junior high school" and complete disestablishment of the dual system in the county and in Scotland Neck will occur "at the beginning of the 1969-70 school year".

a. The Purpose of Chapter 31.

The district court found and the defendant had conceded that one of the purposes of the proponents was to carve out a school system with a racial ratio sufficiently tolerable to whites to stem the exodus to private segregated schools[4] from an area where the ratio was perceived to be intolerable to whites.

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[4] "The testimony and the candid admissions of counsel also indicate that the desire to preserve an acceptable white ratio in the school system was a factor behind the passage of the act. Mr. Harrison stated that he told the legislature that white children were going to private schools and that something needed to be done to retain the support of white people for the public schools. (Henry Harrison's Deposition, p. 18). Mr. Shields and Mr. Overman both testified that they felt that integration would encourage the growth of the all-white private schools. (Overman's Deposition, pp. 217-218, Shields' Deposi-

"After closely scrutinizing the record and after carefully considering the arguments of counsel, this Court is of the opinion that the following motivating forces were responsible for the design of the legislation creating the separate Scotland Neck school district: (1) the desire to improve the educational level in the Scotland Neck schools, the present conditions in those schools having been brought about by a lengthy history of neglect and discrimination with respect to financial allocations to the Scotland Neck schools by the Halifax County Board of Education; (2) a desire on the part of the leaders of Scotland Neck to preserve a ratio of black to white students in the schools of Scotland Neck that would be acceptable to white parents and thereby prevent the flight of white students to the increasingly popular all-white private schools in the area; (3) a desire on the part of the people of Scotland Neck to control their own schools and be in a position to determine their direction with more finality than if the schools were a part of the Halifax County system." (314 F. Supp. at 72).

Judge Larkins did not determine which of the purposes was predominant, but said each was significant.

"In ascertaining such a subjective factor as motivation and intent, it is of course impossible for this Court to accurately state what proportion each of the above reasons played in the minds of the proponents of the bill, the legislators or the voters of Scotland Neck,

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tion, pp. 70-71). Mr. C. M. Moore said that it was his opinion that the independent school system would be a better alternative than the private schools. (Moore's Deposition, pp. 18-19). Mr. Shields testified to the same thing and said that most of the adults in Scotland Neck held the same opinion. (Shields Deposition, pp. 23-26)." (314 F. Supp. at 73). (See A. 984.)

but it is sufficient to say that the record amply supports the proposition that each of the three played a significant role in the final passage and implementation of Chapter 31." (314 F. Supp. at 72).

The majority of the Court of Appeals canvassed the record and determined that the purposes were as Judge Larkins had found, but concluded that benign objectives of quality education and local control predominated (442 F.2d at 582). Judges Sobeloff and Winter came to the opposite conclusion. They believed that the record showed beyond question that the separation of Scotland Neck from Halifax County was conceived as a segregation plan (442 F.2d at 592, 598-600).

We agree with the dissenting judges below. But we think it would unecessarily complicate the case to recite all the facts which demonstrate that Scotland Neck's claims of legitimate non-racial motives are hollow, since Scotland Neck concedes one of its purposes was to accommodate the racial prejudices of its white patrons and since the record is conclusive that the scheme would have substantial discriminatory effects.

b. The Effects of Chapter 31.

In the Spring of 1969, after the election by the Scotland Neck voters, the new district immediately took steps to establish a new administrative unit. One of the first actions taken was to establish a transfer plan to allow students residing outside of the city limits to attend the Scotland Neck school. The new Board adopted a tuition plan whereby families would be charged $100 tuition for the first child registered and $25.00 for each additional child with a maximum of $150 per family. Meanwhile, the County School Board accommodated this policy by permitting transfers into the county from Scotland Neck

without tuition and releasing county children who sought transfer to the new unit.[5]

The Scotland Neck Unit began with a resident student population of 695 of whom 399 (57.4%) were white and 296 (42.6%) black. The transfer plan brought in 350 whites and 10 blacks; no whites and 44 blacks transferred out. The net result was an anticipated enrollment of 1,011 which will be 74.1% white. (Table IV, Maps and Tables; A. 522-524)).

The Court of Appeals thought that the transfer plan which it found to be unconstitutional had "no relevance" to the constitutionality of Chapter 31, because it said "there is nothing in the record to suggest that the Legislature had any idea that the Scotland Neck Board would adopt a transfer plan after the enactment of Chapter 31 which would have the effect of increasing the percentage of white students" (442 F.2d at 581-582, note 3). However, the Court of Appeals overlooked a district court finding of fact which shows that the legislature did know of the transfer plan:

> In November 1968, a group consisting of Frank Shields, the future chairman of the Scotland Neck City Board of Education, C. Kitchin Josey, Henry Harrison, and *Thorne Gregory, the State representative from the area,* visited the Tryon City unit, at that time the smallest school unit in the State with 823 students enrolled during the 1968-69 school year. At that time, 974 pupils were attending the schools within the corporate limits of Scotland Neck, *and it was expected that, with transfer, any new administra-*

[5] Children attending schools outside of the administrative unit where they live may do so only upon the agreement of both the unit of residence and the receiving unit. Units are permitted to establish tuition charges for non-resident students but are not required to do so. N.C. Gen. Stat. §115-163.

tive unit would have approximately the same number of pupils. (314 F. Supp. at 69; emphasis added.)[6]

Subsequently, Representative Thorne Gregory introduced and sponsored the bill, and served as Chairman of the House Finance Committee which approved it (A. 209). Since Scotland Neck had only 695 resident pupils it was obvious that planning for about a thousand students in the new administrative unit was based on a substantial number of transfers. Moreover, since nearly one-half—387 of the 786—of the white pupils attending the historically all-white school were from outside the town, it was equally obvious that the expected transfers would increase the percentage of white students in Scotland Neck School.[7]

It was only after the preliminary injunction was entered that the Scotland Neck Board suggested some control of its transfer policy (A. 796). But it has stubbornly refused to give up the idea entirely. As Judge Winter observed: "This proposal has not yet been finally abandoned. In oral argument before us, counsel would not tell us forthrightly that this would not be done, but rather, equivocally indicated that the proposal would be revived if we, or the district court, could be persuaded to approve it." (442 F.2d at 592). The obvious reasons that Scotland Neck has been

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[6] This finding was fully supported by the record. See Depositions of Overman (A. 299), Harrison (A. 366-67), and Shields (A. 422).

[7] Aside from the many *consolidations* of administrative units in North Carolina in recent years (A. 580-A. 583); *Turner* v. *Warren County Board of Education*, 313 F. Supp. 380 (E.D. N.C. 1970), there had been no new units established in North Carolina since 1953 until the post-*Green* 1969 Legislature created the small units of Scotland Neck, Littleton Lake—Gaston and Warrenton (A. 584). It is highly unlikely, therefore, that the Scotland Neck proponents would have sought to establish the smallest unit in North Carolina, particularly where North Carolina law allowed for the kind of transfer plan which was established. See note 5, *supra*.

reluctant to relinquish its ability to accept transfers are that with only 695 students it would be considerably smaller than the smallest school district now existing in North Carolina making it incapable of even approximating an adequate educational program and because its boundaries exclude nearly one-half of its traditional white patrons.[8]

In addition to the transfer plan, worked out with the Halifax Board, Scotland Neck arranged with State education officials to extend the boundaries of the unit so as to include the grounds of part of the Scotland Neck School campus which was on the county side of the town line.[9] It also successfully negotiated with the Halifax Board to lease the four classroom school building located on the ten acre site for $1.00 per year. (314 F. Supp. 70-71; A. 294).

When this case came on for hearing on the motion of the United States for a preliminary injunction on August of 1969, the Halifax Board was planning to assign its children by freedom of choice. The facts before the district court were that 350 of the 387 white children who lived in the county and who had attended Scotland Neck School in 1968-69 (A. 250) had paid a deposit on their tuition to return for the 1969-70 school year and that the five black schools in the area would be at least 97.8% black. There was, of course, no assurance that the handful of whites who had not transferred to Scotland Neck would not do so later (A. 522) or would show up at the black schools. The only differences between the school boards' proposals for the 1969-70 school year and the situation which had existed at the Scotland Neck School in 1968-69 were that about half of the white children would pay tuition and the black ratio would have increased from 19.8% to 25.9% (Maps and

[8] See note 7, *supra*.
[9] See note 2, *supra*.

Tables, Tables I and IV). The black schools would remain all-black or virtually all-black.

6. *Events Subsequent to the Preliminary Injunction*

On November 24, 1969, the district court directed the Halifax County Board of Education to submit a desegregation plan on December 15 (A. 924). On that date, the Board reluctantly submitted the State's Interim Plan, indicating that it knew of no better plan to disestablish the dual system. On May 19, 1970, Judge Larkins approved the Interim Plan and ordered that it be fully implemented by June 1, 1970.

Following the final judgment in this case enjoining Chapter 31, entered on May 26, 1970, the Halifax School Board filed a motion (A. 1089) requesting that it be permitted to implement the Interim Plan except in Scotland Neck where it proposed to assign all town students to the Scotland Neck School (See Map IV, Maps and Tables). Both the United States and the private plaintiffs objected. The Government correctly characterized the motion as an application for a stay pending appeal (A. 1092). The Board attached a Map (Exhibit A) to its motion which shows what District I would look like if both the Interim Plan and the Scotland Neck Unit were put into effect (Map IV, Maps and Tables). The Brawley zone would entirely encircle the Town of Scotland Neck—like a doughnut—instead of including the Town of Scotland Neck as would be accomplished by the Interim Plan. Scotland Neck School would continue to serve Scotland Neck children in grades 1 through 12. All high school students in District I outside of the town limits would be assigned to Brawley rather than to Scotland Neck as would happen under the Interim Plan. The Board indicated on the Map the number of children by race residing in each zone as follows:

Grades	School	White	Black	Pupils Total	Pupils % Black
		Scotland Neck Unit			
1–12	Scotland Neck	399	296	695	42.6
		Remainder of District I			
1–12	Brawley	83	805	888	90.7
1–8	Bakers	9	357	366	97.5
1–8	Thomas Shields	85	233	318	73.2
1–8	Dawson	60	388	448	86.6
1–8	Tillery Chapel	22	211	233	90.6

Presumably these would be the assignments if the Scotland Neck Unit were allowed to operate but were subject to the Court of Appeals' injunction against permitting transfers in or out.

ARGUMENT

The District Court Correctly Enjoined the Division of Halifax County's System into Two Separate Units Where the Changed Boundaries Would Impede Desegregation and Where Formerly Ignoring Such Boundaries Was Instrumental in Promoting Segregation.

Introduction and Summary of Argument

We submit in Part I, *infra*, that the decision of the district court is consistent with the basic principles enunciated in this Court's various school desegregation decisions following *Brown* v. *Board of Education*, 347 U.S. 483 (1954) (*Brown I*); 349 U.S. 294 (1955) (*Brown II*), including the most recent decisions in *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971), and companion cases. We believe that the Court of Appeals departed from those principles in important respects. In particular, we urge that the district court was correct in evaluating Chapter 31 in relation to its effect on the various desegregation alternatives available in Halifax County. We think the Court of Appeals erred by adopting a rule that Chapter 31 should be sustained unless plaintiffs proved that its "primary purpose is to retain as much separation of the races as possible." The Fifth Circuit has applied a correct rule in deciding similar cases, namely, that districts engaged in the desegregation process may not make boundary changes which impede desegregation, particularly where such boundaries were ignored to facilitate a dual system. See, *e.g.*, *Lee* v. *Macon County Board of Education (Calhoun County School System and City of Oxford School System)*, 448 F.2d 746 (5th Cir. 1971); *Stout* v. *Jefferson County Board of Education*, 448 F.2d 403 (5th Cir. 1971).

In Part II, below, we focus on the facts of Halifax County and urge that the district court was correct in ruling that the proposed separation of Scotland Neck does impede desegregation, while the Court of Appeals erred by labeling the change "minimal" and "hardly substantial" in its impact on the desegregation process. We show that the dual system in Halifax County was long sustained and facilitated by ignoring boundaries of the kind now erected to maintain Scotland Neck School as a majority white school while nearby Brawley and four other black schools will be maintained as black institutions. The proposed separation of Scotland Neck is in conflict with the requirement that "school authorities should make every effort to achieve the greatest possible degree of actual desegregation" (*Swann* v. *Board of Education*, 402 U.S. 1, 26 (1971); *Davis* v. *Board of* School Commissioners, 402 U.S. 33, 37 (1971)), and impedes the use of conventional desegregation techniques, *e.g.*, the "pairing" of nearby schools (*Swann, supra* at 27); see also *North Carolina State Board of Education* v. *Swann*, 402 U.S. 43 (1971). While no particular degree or percentage of racial balancing is required by the Constitution, the shifting percentages caused by the separation of Scotland Neck would continue existing all-black schools and schools that are "substantially disproportionate in their racial composition" (*Swann, supra*, 402 U.S. 1, 26).

I.

The District Court Correctly Evaluated the Proposed Scotland Neck Secession in Terms of Its Effectiveness in Dismantling School Segregation in Eastern Halifax County.

The district court had the crucial responsibility to see to it that all vestiges of state imposed segregation in Halifax County be eliminated forthwith. *Brown* v. *Board of Education*, 347 U.S. 483 (1954); 349 U.S. 294 (1955); *Green* v. *County School Board of New Kent County*, 391 U.S. 403 (1968); *Raney* v. *Board of Education*, 391 U.S. 443 (1968); *Monroe* v. *Board of Commissioners*, 391 U.S. 450 (1968); *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1969); *Carter* v. *West Feliciana Parish School Board*, 396 U.S. 290 (1970); *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971); *Davis* v. *Board of School Commissioners of Mobile County*, 402 U.S. 33 (1971). It is beyond question that a typical pattern of a racially segregated dual school system which had been erected pursuant to the Constitution and laws of the State of North Carolina, continued to exist in rural Halifax County almost undisturbed when this case came before the district court in August and December of 1969. See Part II, *infra*. In this case the district court thought that its duty "under this Court's mandate to eliminate racially separate public schools established and maintained by state action" (*Swann*, *supra*, 402 U.S. 1, 5), was to compare the proposed secession of Scotland Neck from Halifax County with other proposals in terms of their relative effectiveness in dismantling school segregation root and branch. *Green* v. *County School Board of New Kent County*, 391 U.S. 403 (1968). Applying this standard, the district judges found that the operation of the new school unit would impede rather than further de-

segregation. The court therefore enjoined its operation and ordered the Halifax County Board to implement the more effective plan which had been proposed by North Carolina's Department of Public Instruction.

We think that this approach was entirely consistent with this Court's school desegregation decisions. The novelty of a state law changing a district's boundaries in the face of desegregation does not avert *Brown's* basic thrust. *Brown II* envisioned that the equitable power of the district courts ought to be addressed to revision of "school districts" as well as individual schools and attendance areas. This was assumed by the Court in enumerating factors that might justify delay in immediate desegregation:

> To that end the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, *revision of school districts* and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. (349 U.S. at 300-301; emphasis added.)

In declaring segregation unconstitutional, the Court made plain that "all provisions of federal, state, or local law requiring or permitting such discrimination must yield to this principle" (*Brown II, supra,* 349 U.S. at 298). Cf. *Gomillion* v. *Lightfoot,* 364 U.S. 339 (1960).

The Court announced in *Green* and reaffirmed in *Swann* that a "school authority's remedial plan or a district court's remedial decree is to be judged by its effectiveness." 402 U.S. 1, at 25. *Green* said that school boards had "the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimina-

tion would be eliminated root and branch." 391 U.S. at 437-438. *Swann* articulated further guidelines including, *inter alia,* the requirement that district judges and school authorities "make every effort to achieve the greatest possible degree of actual desegregation"; the articulation of "a presumption against schools that are substantially disproportionate in their racial composition" with the burden on school authorities to justify any one-race schools as not resulting from past discriminatory action; and the endorsement of the use of drastically altered attendance zones, and techniques of pairing and non-contiguous zoning to dismantle segregated systems. 402 U.S. at 26-28. See also *Davis* v. *School Commissioners of Mobile County;* 402 U.S. 33, 37 (1971). Moreover, the Court made it clear that assignment plans are "not acceptable simply because . . . [they appear] to be neutral" if they fail to counteract the continuing effects of past discrimination. 402 U.S. at 28.

Swann also reflected the Court's understanding of the manifold means by which school authorities control the racial composition of schools, noting the great influence exerted by decisions about school location and construction, and requiring that Court's look to the future to prevent such decisions from being used to perpetuate or reestablish dual systems. 402 U.S. at 20-21. Finally, *Swann* reemphasized the broad remedial discretion of the district judges where school authorities have defaulted in their constitutional obligation to provide a racially nondiscriminatory system of public schools. 402 U.S. at 15-18, 25, 28, 31.

As previously mentioned the district court concluded that Chapter 31 "was enacted with the effect of creating a refuge for white students of the Halifax County School system, and interferes with the desegregation of the Hali-

fax County School system, in accord with the plan adopted by said Board to be implemented on or before June 1, 1970." 314 F. Supp. at 78. This conclusion, buttressed by detailed fact-findings, supported the decision to enjoin Chapter 31 as an interference with the best available desegregation plan and is in accord with *Green* and *Swann*.

The Court of Appeals took a very different approach. It began by assuming that the withdrawal of a small area in the middle of the eastern portion of Halifax County at a time when the Halifax School Board was under an immediate duty to produce and implement an effective school desegregation plan was to be viewed as a normal creation of a political entity by the State of North Carolina:

> Appellees urge in their brief that conceptually the way to analyze this case is to "view the results of severance as if it were part of a desegregation plan for the original system." We do not agree. The severance was not part of a desegregation plan proposed by the school board but was instead an action by the Legislature redefining the boundaries of local governmental units. 442 F.2d at 382-83.[10]

Rejecting the standard of *Green* requiring the selection of the most effective plan, the Court of Appeals designed the "primary purpose" test to determine whether the new school unit would violate the Fourteenth Amendment.

> If the creation of a new school district is designed to further the aim of providing quality education and

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[10] The court went on to assume "For the sake of argument that appellees' method of analysis is correct" and concluded "that the severance of Scotland Neck students would withstand constitutional challenges." 442 F.2d at 583. In our next argument (II), we demonstrate why the district court was correct in its determination that the new unit would impermissibly impede desegregation in Halifax County.

> is attended secondarily by a modification of the racial balance, short of resegregation, the federal courts should not interfere. If, however, the primary purpose for creating a new school district is to retain as much of separation of the races as possible, the state has violated its affirmative constitutional duty to end state supported school segregation. The test is much easier to state than it is to apply.

Wright v. *Council of City of Emporia*, 442 F.2d 570, 572 (4th Cir. 1971).[11] In applying this test to Scotland Neck, the majority of the Court of Appeals concluded that "The purpose of Chapter 31 was not to invidiously discriminate against black students in Halifax County . . ." (442 F.2d at 582). We agree with the dissenting judges below that even if the primary purpose test were appropriate, the record here decisively reveals an overriding motive of segregation.[12] However, the analysis employed by the

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[11] The rule which applied to the three cases which were decided together (*Emporia*, *Scotland Neck* and *Turner* v. *Littleton-Lake Gaston School District*, 442 F.2d 584 (4th Cir. 1971), was most fully discussed in *Emporia*.

[12] Judge Sobeloff applied the majority's test (442 F.2d at 598-60) and came to the "conclusion that race was the dominant consideration and that the goal was to achieve a degree of racial apartheid more congenial to the white community." 442 F.2d at 600. Judge Winter also reviewed the facts, 442 F.2d at 591-92, and reached the same result. "On the facts I cannot find the citizens of Scotland Neck motivated by the benign purpose of providing additional funds for their schools; patently they seek to blunt the mandate of *Brown*." 442 F.2d at 592. We would only add a brief discussion of two matters to what Judges Sobeloff and Winter have said.

Judge Craven found for the majority that the unconstitutional transfer plan did not affect the constitutional validity of Chapter 31 (442 F.2d at n. 3, 581-82) even though a similar plan was relevant in determining the constitutional invalidity of the new district in *Littleton-Lake Gaston* (442 F.2d n. 2, 587) because the legislature did not know of the proposed transfer plan for Scotland Neck but did for Littleton-Lake Gaston. Judges Sobeloff and Winter convincingly found the transfer plan very relevant to the

Court of Appeals is considerably more pernicious in terms of the future course of school desegregation than in its application to a particular case.[13]

The "primary purpose" doctrine is a dangerous departure from the firmly established principles worked out by this Court and lower courts since *Brown* to ensure that all the interlacing laws, practices and customs which have sup-

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issue of purpose. 442 F.2d at 591-92; 442 F.2d 598-99. What is conclusive, however, is the district court's specific finding based on substantial evidence that Representative Gregory, who introduced and shepherded Chapter 31 through the State House, had full knowledge of the transfer plan. See p. 15, *supra*. Moreover, the law did not take effect until after a vote of the residents of Scotland Neck where the issue was supported by the same people who sought its passage in the legislature and who established the transfer plan immediately after its implementation. Finally, the transfer plan was readily foreseeable since it was permissible under state law. See note 5, *supra*.

Second, Judge Craven in finding the selection of the town boundaries to be a "natural geographic boundary" and seeing "no indication that the geographic boundaries were drawn to include white students and exclude black students . . ." 442 F.2d at 582, thought that this pointed towards a benign purpose. We dispute both assertions. We know of nothing "natural" about the political boundaries of a town. See pp. 39-40, *infra*. And we think that the selection of Scotland Neck, which is the only area of eastern Halifax County which has a majority white student population, raises an inference of racial motive. Map IV, Maps and Tables; see pp. 39-40, *infra*.

[13] Judge Sobeloff observed: "I find no precedent for this test and it is neither broad enough nor rigorous enough to fulfill the Constitution's mandate. Moreover, it cannot succeed in attaining even its intended reach, since resistant white enclaves will quickly learn how to structure a proper record—shrill with protestations of good intent, all considerations of race muted beyond range of the court's ears." 442 F.2d at 594. The doctrine will trap federal courts "in a quagmire of litigation. The doctrine formulated by the court is ill-conceived and surely will impede and frustrate prospects for successful desegregation. Whites in counties heavily populated by blacks will be encouraged to set up, under one guise or another, independent school districts in areas that are or can be made predominantly white." 442 F.2d at 600. See also, Brief for Petitioners, *Wright* v. *Council of City of Emporia*, No. 70-188, pp. 37-46.

ported dual school systems are dismantled and abolished. It is fundamentally wrong, therefore, to say as the Court of Appeals has said, that an act of the legislature aimed at altering the structure of a single school system amidst a desegregation controversy is to be judged by its "primary purpose" and not by its effect on the desegregation in the locality. It was error to require that plaintiffs prove the "primary purpose" to segregate where they have shown that the effect of the law impedes desegregation.

It was recognized by this Court from the start that school segregation is the product of a whole battery of devices rooted in state action. A variety of schemes and arrangements have cropped up over the years which served to withhold the promise of *Brown*. The Court has rejected time and again claims that the action of one state official or agency or another has some kind of insulation from judicial scrutiny. This has been so because:

> In short, the constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the *Brown* case can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation whether attempted "ingeniously or ingenuously."

Cooper v. *Aaron*, 358 U.S. 1, 17 (1958). See also, *Bush* v. *Orleans Parish School Board*, 190 F. Supp. 861 (E.D. La. 1960), *aff'd sub nom. City of New Orleans* v. *Bush*, 366 U.S. 212 (1961); *Griffin* v. *School Board*, 377 U.S. 218 (1964); and see the authorities collected in Judge Sobeloff's dissent below, 442 F.2d at 593-594, nn. 1, 2, 3, 4 and 5. See also cases invalidating a host of private school tuition grant schemes *infra*, Part II, note 26.

The Court of Appeals acknowledged in the *Emporia* case that the device of carving up school districts into a number of separate units posed a "serious danger" of obstructing desegregation. *Wright* v. *Council of City of Emporia*, 442 F.2d 570, 572 (4th Cir. 1971). This danger has been clearly perceived and decisively dealt with by the lower federal courts. It is very significant that every such attempted secession which we have found reported in the lower federal courts—with the sole exception of the *Scotland Neck* and *Emporia* cases—has resulted in a decision disapproving such secessions as unconstitutional evasions of *Brown*. *Lee* v. *Macon County Board of Education (Calhoun County School System and City of Oxford School System)*, 448 F.2d 746 (5th Cir. 1971); *Stout* v. *Jefferson County Board of Education*, 448 F.2d 403 (5th Cir. 1972); *Burleson* v. *County Board of Election Commissioners of Jefferson County*, 308 F. Supp. 352 (E.D. Ark. 1970), *affirmed*, 432 F.2d 1356 (8th Cir. 1970); *Turner* v. *Warren County Board of Education*, 313 F. Supp. 380 (E.D. N.C. 1970), *affirmed sub nom. Turner* v. *Littleton-Lake Gaston School District*, 442 F.2d 584 (4th Cir. 1971); *Aytch* v. *Mitchell*, 320 F. Supp. 1372 (E.D. Ark. 1971); *cf. Jenkins* v. *Township of Morris School Dist.*, 58 N.J. 483, 279 A.2d 619 (1971). In each of these cases an attempted secession was struck down as an interference with desegregation.

Similarly, in a long series of cases where existing school districts have been established on a racially segregated basis, the courts have ordered desegregation plans which effectively merged racially separate districts. *Haney* v. *County Board of Education of Sevier County*, 410 F.2d 920 (8th Cir. 1969); *United States* v. *Texas*, 321 F. Supp. 1043 (E.D. Tex. 1970), *affirmed*, 447 F.2d 441 (5th Cir. 1971); *Evans* v. *Buchanan*, 207 F. Supp. 820, 825 (D. Del. 1962); *Sloan* v. *Tenth School District of Wilson County, Tenn.*,

433 F.2d 587, 588 (6th Cir. 1970) (mentioning prior proceedings involving merger of three overlapping districts); *United States* v. *Bright Star School District #6,* unreported, W.D. Ark. No. T-69-C-24, April 15, 1970; *United States* v. *Crockett County Board of Education,* unreported, W.D. Tenn., C.A. No. 1663, May 15, 1967.

The two recent Fifth Circuit decisions in *Lee* and *Stout,* both decided since this Court's decisions in *Swann* and companion cases provide the approach which we believe should be used in deciding such controversies. The decision in *Stout, supra,* by a unanimous panel of Judges Thornberry, Clark and Ingraham, held that splinter school districts, albeit valid under state law, need not be recognized where they thwart implementation of a unitary school system. The court relied upon this Court's decision striking down the North Carolina Anti-Bussing statute, *North Carolina State Board of Education* v. *Swann,* 402 U.S. 43, 45 (1971), quoting the following language from that opinion by the Chief Justice:

> . . . [I]f a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct the operation of a unitary school system or impede the disestablishing of a dual school system, it must fall; state policy must give way when it operates to hinder vindication of federal constitutional guarantees.

Stout v. *Jefferson County Board of Education,* 448 F.2d 403, 404 (5th Cir. 1971).

The opinion in *Lee, supra,* by Judge Wisdom (joined by Judge Simpson, as on this issue by Judge Coleman) held that in confronting the secession of the City of Oxford school system from the Calhoun County system the district court properly treated the two systems as one for the

purpose of developing a desegregation plan. Judge Wisdom wrote in *Lee*, 448 F.2d at 752:

> For purposes of relief, the district court treated the Calhoun County and Oxford City systems as one. We hold that the district court's approach was fully within its judicial discretion and was the proper way to handle the problem raised by Oxford's reinstitution of a separate city school system. The City's action removing its schools from the county system took place while the city schools, through the county board, were under court order to establish a unitary school system. The city cannot secede from the county where the effect—to say nothing of the purpose—of the secession has a substantial adverse effect on desegregation of the county school district. If this were legally permissible, there could be incorporated towns for every white neighborhood in every city. [Citations omitted] . . . Even historically separate school districts, where shown to be created as a part of a statewide dual school system or to have cooperated together in the maintenance of such a system, have been treated as one for purposes of desegregation. [Citations omitted] . . .
>
> School district lines within a state are matters of political convenience. It is unnecessary to decide whether long-established and racially untainted boundaries may be disregarded in dismantling school segregation. *New* boundaries cannot be drawn where they would result in less desegregation when formerly the lack of a boundary was instrumental in promoting segregation. Cf. Henry v. Clarksdale Municipal Separate School District, 5 Cir. 1969, 409 F.2d 683, 688, n. 10.

We believe that Judge Wisdom's formulation provides a principle for decision consistent with the case law developed in this Court from *Brown* to *Swann* and capable of coping with a potentially widespread new pattern of evasion, the "incorporated town for every white neighborhood." The courts below in this case wrote without benefit of this Court's opinion in *Swann*, but nevertheless Judge Winter's dissent (joined by Judge Sobeloff) reached a formulation based on *Green* that is similarly satisfactory:

> Given the application of the *Green* rationale, the remaining task in each of these cases is to discern whether the proposed subdivision will have negative effects on the integration process in each area, and, if so, whether its advocates have borne the "heavy burden" of persuasion imposed by Green. (442 F.2d at 589).

Judge Sobeloff's dissenting opinion stated that the test for any such secession was whether it served a "compelling and overriding" state interest:

> If challenged state action has a racially discriminatory effect, it violates the equal protection clause unless a compelling and overriding legitimate state interest is demonstrated. This test is more easily applied, more fully implements the prohibition of the Fourteenth Amendment and has already gained firm root in the law. (442 F.2d at 595).

Of course Judges Sobeloff and Winter did not have the benefit of *Swann's* statement that in traditionally dual systems there is a "presumption against schools that are substantially disproportionate in their racial composition" (402 U.S. at 26), and the holding that all proposals contemplating disproportionate schools should be scrutinized

"to satisfy the court that their racial composition is not the result of present or past discriminatory action . . ." (402 U.S. at 26).

Whatever verbal formulation is used to state the test, we think the Fourth Circuit's emphasis on the requirement that plaintiffs show a legislative motivation to promote segregation is basically inconsistent with effective implementation of *Brown* in the face of determined tactics of resistance and evasion. The response by all of the other federal courts which have faced the secession tactic points the way to full realization of the right to a racially nondiscriminatory public education.

II.

The Separation of Scotland Neck From the Halifax County School System Impedes Desegregation of the Schools Involved.

An analysis of the facts in this case demonstrates the correctness of the district court's ruling that the proposed secession would impede desegregation and the error of the court of appeals in labeling the change "hardly substantial" and "minimal". The application of the legal principles discussed in part I can best be understood by considering the facts with respect to: (1) the pattern of operation under the dual system, (2) the interim desegregation plan proposed by the state survey committee, and (3) the pattern which would have developed with Scotland Neck as a separate system, either with or without the interdistrict transfers.

A. *Organization of the Dual System in Scotland Neck Area.*

The eastern part of Halifax County around the town of Scotland Neck had a classic dual segregated system.

Scotland Neck School served all-white children for miles around in grades 1-12.[14] Five Black schools served the same region in a separate system for blacks. Brawley School (1-12)—less than a mile from Scotland Neck—served the same region with a high school zone entirely overlapping Scotland Neck's and partially overlapping its elementary zone (A. 273-276; 149). The other four black schools (Bakers, Tillery Chapel, Dawson and Thomas Shields) overlapped the balance of Scotland Neck's elementary attendance area. The black majority had "neighborhood" elementary schools while the white minority was bused to a regional elementary school at Scotland Neck (A. 273-276).

Under the dual system the boundary of the town of Scotland Neck had no significance whatsoever in the assignment of pupils. White pupils in the county came to town to attend Scotland Neck (A. 250), and black pupils living in town went to Brawley which was located just outside the city limits on the town's eastern boundary (A. 273-276). In 1960 an addition to Scotland Neck School—the four-classroom junior high site—was built *outside the town limits* in the county. Scotland Neck School was expanded periodically[15] to its present capacity of 1,000 students in order to serve the white population of the eastern end of the county, a larger population than the 695 resident pupils of the town. Similarly the establishment of Brawley[16] as a separate school for blacks just a short distance away on the

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[14] The nearest white school was Enfield, about 16 miles from Scotland Neck.

[15] Scotland Neck was built in 1903, with classroom additions and improvements in 1923, 1939, 1949, 1954 and 1960. (A. 667-A. 668)

[16] Brawley was built in 1926 with classroom additions and improvements in 1937, 1942, 1951, 1955, 1960 and 1968. (A. 652-A. 653)

town boundary (A. 233) was premised on using it to serve all blacks in the region—both within and without the City limits.

Under the dual system the Halifax County Board had a variety of arrangements ignoring even the boundaries with neighboring school administrative units where convenient or necessary to serve the ends of segregation. For example, Indian students were sent to the Haliwa School in the next county, Warren County; many black students were sent to Chaloner School in the Roanoke Rapids City system; and white pupils were sent to Littleton School in Warren County (A. 221). Similar arrangements brought pupils from other districts into the Halifax system to attend segregated schools. The footnote below details this widespread pattern of ignoring and crossing over school unit boundaries to implement segregation.[17] When the arrangement sending black children to Chaloner School located in the Roanoke Rapids system was challenged by the Department of Health, Education, and Welfare, the Halifax Board leased Chaloner from Roanoke Rapids and continued the black children in

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[17] (A. 221); Answer to interrogatory 3(d) (A. 859-860):

Approximate Number of Students Who Reside Within the Unit but Who Attend School Outside of the Unit

Year	*No. of Pupils by Race*	*School Unit of Residence*	*School and School Unit Attended*
1964–65	220 (Indian)	Halifax County	Haliwa-Warren County
	160 (White)	Halifax County	Littleton-Warren County
	800 (Negro)	Halifax County	Chaloner-Roanoke Rapids City
1965–66	220 (Indian)	Halifax County	Haliwa-Warren County
	155 (White)	Halifax County	Littleton-Warren County
	790 (Negro)	Halifax County	Chaloner-Roanoke Rapids City
1966–67	215 (Indian)	Halifax County	Haliwa-Warren County
	155 (White)	Halifax County	Littleton-Warren County
1967–68	150 (Indian)	Halifax County	Haliwa-Warren County
	150 (White)	Halifax County	Littleton-Warren County
1968–69	140 (Indian)	Halifax County	Haliwa-Warren County
	150 (White)	Halifax County	Littleton-Warren County
1969–70	75 (White)	Halifax County	Littleton-Warren County

the same building which thus became a part of the Halifax system even though it was located within the City of Roanoke Rapids.[18] In sum, the Halifax Board, like many other dual school systems,[19] freely ignored not only the boundaries of the town of Scotland Neck—which were never considered

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Approximate Number of Students Who Reside Outside of the Halifax County School Administrative Unit and Attend School Within the Unit

Year	*No. of Pupils by Race*	*School Unit of Residence*	*School Attended*
1964–65	75 (white)	Roanoke Rapids City	Wm. R. Davie
	40 (Negro)	Martin County	Thomas Shields
	20 (Negro)	Martin County	Brawley
	10 (white)	Martin County	Hobgood
	4 (white)	Martin County	Scotland Neck
1965–66	75 (white)	Roanoke Rapids City	Wm. R. Davie
	30 (Negro)	Martin County	Thomas Shields
	10 (Negro)	Martin County	Brawley
	5 (white)	Martin County	Scotland Neck
1966–67	75 (white)	Roanoke Rapids City	Wm. R. Davie
	10 (Negro)	Martin County	Thomas Shields
	5 (Negro)	Martin County	Brawley
	7 (white)	Martin County	Scotland Neck
1967–68	75 (white)	Roanoke Rapids City	Wm. R. Davie
	10 (Negro)	Martin County	Thomas Shields
	5 (Negro)	Martin County	Brawley
	7 (white)	Martin County	Scotland Neck
1968–69	75 (white)	Roanoke Rapids City	Wm. R. Davie
	10 (Negro)	Martin County	Thomas Shields
	5 (Negro)	Martin County	Brawley
1969–70	75 (white)	Roanoke Rapids City	Wm. R. Davie

[18] A. 821 and A. 860-861; Answers to Interrogatories 2 and 3(d).

[19] The following are some of the reported cases involving sending black pupils to adjacent county school systems in order to promote racial segregation; *Griffin* v. *Board of Education of Yancey County*, 186 F. Supp. 511 (W.D.N.C. 1960); *School Board of Warren County, Va.* v. *Kilby*, 259 F.2d 497 (4th Cir. 1958); *Goins* v. *County School Board of Grayson County, Va.*, 186 F. Supp. 753 (W.D. Va. 1960), *stay denied*, 282 F.2d 343 (4th Cir. 1960); *Corbin* v. *County School Board of Pulaski County, Va.*, 177 F.2d 924 (4th Cir. 1949); *Crisp* v. *County School Board of Pulaski County, Va.* (W.D. Va. 1960), 5 Race Rel. L. Rep. 721; *Buckner* v. *County School Board of Greene County*, 332 F.2d 452 (4th Cir. 1964); *Walker* v. *County School Board of Floyd County, Va.* (W.D. Va. 1960), 5 Race Rel. L. Rep. 714. *Cf. Missouri ex rel. Gaines* v. *Canada*, 305 U.S. 337 (1938).

relevant to school assignments—but also the boundaries of its own school district in order to promote and facilitate the dual system.

The adoption of a freedom of choice plan had a negligible impact on the dual pattern developed under state law. Judge Larkins found:

> "The county maintained the freedom-of-choice assignment plan for the next three years during which a few black students attended formerly all-white schools and no white students attended formerly all-black schools. For example, during the 1967-68 school year, all of the white students and 97% of the black students attended schools previously maintained for their own races. In that year, 10 of the 450 teachers in 18 schools were assigned across racial lines. About 35 black students attended the Scotland Neck schools during the 1967-68 school year." (314 F. Supp. at 67.)

In the eastern area of the county five schools remained all black under the free choice plan.[20] The result of "Freedom of Choice" at Scotland Neck and Brawley, both serving grades 1-12, less than a mile apart, directly parallels the situation of the Field and Gould Schools in *Raney* v. *Board of Education,* 391 U.S. 443, 445 (1968). See also the New Kent and Watkins schools in *Green, supra,* 391 U.S. at 441-442 (1968).

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[20] The intermediate desegregation arrangement negotiated by the Department of Justice for 1969-70 eliminated the dual pattern for a few classes of black 7th and 8th graders who were transferred en masse to white schools.

B. *The Interim Plan.*

The interim plan developed by the state survey committee approached the problem of establishing a unitary system by using the simplest of techniques, ordinary geographic zoning, to eliminate the dual pattern. Scotland Neck and Brawley would continue to serve the entire eastern region, but Scotland Neck was made the high school (10-12) and Brawley would serve grades 8-9.[21] Elementary children in the immediate environs of both schools would go to Brawley, with the Scotland Neck Junior High site used for certain elementary grades. The other four elementary schools in the district were also given geographic zones. Some measure of integration would be achieved at each school by this simple zoning technique (Table II, Maps and Tables). The white minority in the District I area (21%) would be somewhat concentrated in Scotland Neck (33.6% white) and Brawley (30.8% white) reflecting the population distribution at the elementary level. But at least Brawley would be desegregated for the first time and all pupils in grades 8-12 (or 9-12) would attend schools which reflected the racial composition of the eastern region of the county. The other four black elementary schools would also be desegregated for the first time with white populations reflecting those areas and ranging from 1.5% to 16.6%. (See Table II, Maps and Tables.) In sum, the state survey committee recommended an interim plan based on conventional geographic attendance zones by which there would be essentially as much school desegregation as there was residential integration in the area.

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[21] The interim plan proposed that the elementary schools serve grades 1-7 (A. 606). For some reason the December, 1968 projections by the Halifax Board show grades 1-8 at these schools (A. 681-682), and this is the grade structure actually put into effect, e.g., 1-8 at elementary schools, grade 9 at Brawley, and grades 10-12 at Scotland Neck.

The Halifax County School Board refused to accept this interim desegregation plan. Instead, the County Board offered more freedom of choice, while the white citizens of Scotland Neck and local white political leaders pushed through arrangements for the separate system in Scotland Neck over the opposition of the black community.

C. *The Assignment Pattern If Scotland Neck Secedes; the Doughnut-Shaped Zone for Brawley.*

The sudden designation of the town limits of Scotland Neck as the attendance boundary for Scotland Neck School, as we have noted, broke all precedent insofar as pupil assignments in the county were concerned.[22] The town boundary is in no sense a "natural boundary" although the opinion below inexplicably uses that phrase. The boundary is precisely a political and not a natural or geographic line following notable features of terrain or the like.[23] Maps show that the town line (developed by various annexations) follows a meandering cause with more than twenty sides not far different in character from the "uncouth twenty-eight-sided figure" involved in *Gomillion* v. *Lightfoot*, 364 U.S. 339, 340 (1960). The Scotland Neck town limits are not drawn so as to exclude all blacks since the town has about 42.6% black pupils, but the limits do *include* so large a proportion of the whites in the area that the town is substantially "whiter" in population than the surrounding township. (See the attendance projections for Brawley and Scotland Neck; Map IV, Table III, Maps

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[22] By creating the state's smallest district, and the first new district since 1953, Chapter 31 also broke precedent and reversed the trend of consolidating small districts. See note 7, *supra*.

[23] In *Davis* v. *School Commissioners of Mobile County*, 402 U.S. 33, 36, 38 (1971), the Court ordered consideration of assignments across a major man-made barrier, a highway dividing the east and west parts of the district.

and Tables.) We note that a separate school system for Scotland Neck *plus four surrounding townships* which was proposed and defeated in 1965 (during the freedom of choice era) would not have had a white majority.[24]

The secession of Scotland Neck school effectively imposes on the county a peculiar zone for Brawley which must then serve elementary pupils on all sides of the town. The peculiar looking doughnut shaped zone for Brawley—with the town as the "hole"—which is created by carving the town out of the county system is the most flagrant kind of gerrymander. Yet, the Halifax County Board has no practical choice but to use some variation of this "doughnut" to serve as an elementary zone for those pupils living around the immediate environs of the town if the secession is permitted to proceed. (See Map IV, Maps and Tables.)

The new town school unit impedes desegregation and has "negative effects," to borrow Judge Winter's phrase, in a number of different ways. The effects are negative if the facts are analyzed either in terms of the impact on the remaining county school system as a whole, or the impact on Brawley and the other four black schools in the eastern end of the county.

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[24] U.S. Bureau of the Census, U.S. Census of Population: 1970 General Population Characteristics, North Carolina, pp. 35-116:

	Total	*White*	*Negro*	*Other*
Conoconnara Twp.	1,006	186	820	–
Palmyra Twp.	1,546	631	914	1
Roseneath Twp.	1,104	338	766	–
Scotland Neck Twp.	5,013	2,208	2,804	1
	8,669	3,363	5,304	2

(The Scotland Neck Township total included 2,869 persons in Scotland Neck Town.)

The lower courts focused discussion on the effect of the secession on the racial percentages in the entire county system. Judge Sobeloff described it this way:

> "The challenged legislation carves an enclave, 57% white and 43% black, from a previously 22% white and 77% black school system. No compelling or overriding state interest justifies the new district, and its formation has a racially discriminatory effect by allowing the white residents of Scotland Neck to shift their children from a school district where they are part of a 22% minority to one where they constitute a 57% majority" (442 F.2d at 597: footnote omitted).

Considering the same facts Judge Winter said: "The difference between the percentage of white students within the existing system and the newly-created one for Scotland Neck is thus 35%. A more flagrant example of the creation of a white haven, would be difficult to imagine" (442 F.2d at 591). By contrast, the opinion of the majority below, characterized the white majority in the town schools as "not large" and focused on the fact that removing the Scotland Neck pupils from the county changed the black percentage in the county "only 3 percent" from 77% to 80%. We think that the conclusion by the trial court and by the dissenting appeals judges that these statistics show a substantial impediment to desegregation is far more persuasive than the opposing view adopted below. The Court of Appeals majority did not have the benefit of this Court's decision in *Swann* when it wrote its decision. The court below reasoned that where the creation of new units "is designed to further the aim of providing quality education and is attended secondarily by a *modification of the racial balance, short of resegregation,* the federal courts should not interfere". *Wright* v. *Council of City of*

Emporia, 442 F.2d 570, 572 (4th Cir. 1971) (emphasis added). We think this notion that only effective "resegregation" is to be condemned completely misses the mark under *Swann*. *Swann* requires "the greatest possible degree of actual desegregation," and a presumption against one-race schools and other schools "substantially disproportionate in their racial composition." 402 U.S. at 26. *Swann* gives the district courts discretion to prevent construction and site selection decisions that will even tend to interfere with the elimination of, or threaten to reestablish, segregation. 402 U.S. at 20-21. The district courts need not withhold action against such a threat until resegregation is an accomplished fact. The Court of Appeals has approved the creation of a system in Scotland Neck which is substantially disproportionate from the surrounding county. Indeed, as we discuss further below, it is also substantially disproportionate with the immediate environs of Scotland Neck and the east end of the county.

The Court of Appeals also suggested that the secession was justified by the fact that the one school within the town would be "integrated" in accord with the town's population. 442 F.2d at 582. In dealing with the neighborhood school concept *Swann* makes it clear that some "racially neutral" assignment plans may be inadequate to "counteract the continuing effects of past school segregation resulting from discriminatory location of school sites or distortion of school size in order to achieve or maintain an artificial racial separation," *Swann*, 402 U.S. at 28. As Judge Wisdom wrote in a famous voting discrimination case, "The promise of evenhanded justice in the future does not bind our hands in undoing past injustices" *United States* v. *Louisiana*, 225 F.Supp. 353, 396 (E.D. La. 1963), affirmed 380 U.S. 145 (1965).

D. *The Effect of Secession on Brawley and District I.*

We believe that a better understanding of what is accomplished by the secession of Scotland Neck is achieved by focusing on Scotland Neck and Brawley schools and on the other four black schools which make up District I in the east end of Halifax County. It is in this area that Chapter 31 had its major impact. The more distant areas of Halifax County are obviously not nearly so much affected as the area near Scotland Neck. The following chart shows the impact of Chapter 31 on the two schools most directly involved:

	Scotland Neck School				*Brawley School*			
	White	*% White*	*Black*	*% Black*	*White*	*% White*	*Black*	*% Black*
1968-69 (after transfer of grades 7 and 8 from Brawley to Scotland Neck)	786	80.3%	193	19.7%	0	0	1,106	100.0%
1969-70 (Proposed)								
a) Plan prepared by State Staff	325	33.7%	640	66.3%	330	30.8%	740	69.2%
b) If Chapter 31 were implemented	399	57.4%	296	42.6%	83	9.3%	805	90.7%

As Judge Winter noted, "local legislation is enacted as a result of local desire and pressure" (442 F.2d at 589). The local initiative in this case came from whites in Scotland Neck, in an attempt to keep their white school as white as possible. Under freedom of choice, only a handful of the students in their school were black. When the Justice Department insisted upon some desegregation progress for the 1968-69 school year, the County School Board moved the 7th and 8th grades from Brawley to Scotland Neck, raising the black enrollment to 19.7%. The complete de-

segregation plan drawn by state educational officials and accepted by the Justice Department would have increased the black population at Scotland Neck to 66.3%. It would also have assigned whites to Brawley for the first time, reducing the black enrollment to 69.2%.

With the creation of a new district, the Scotland Neck School would remain majority white. Instead of a 66% *black* majority under the state plan, it would have a 57% *white* majority and the number of white students assigned to Brawley would be reduced from 330 to 83.

These population shifts are substantial by any test: (1) the secession reduces Scotland Neck's black population by 24 percentage points and increases the white population a like amount (from 33.7% W-69.2% B to 57.4% W-42.6% B); (2) the secession reduces Brawley's white population by 21.5 percentage points and increases the black population a like amount (from 30.8% W-69.2% B to 9.3% W-90.7% B). These changes would make both Brawley and Scotland Neck substantially racially disproportionate, *Swann, supra,* 402 U.S. at 26. The pupil population in District I—the entire eastern region has ranged from 76%-79% black in recent years (see Table III, Maps and Tables). The combined populations of the Scotland Neck Unit (the town) and the Brawley zone surrounding it are about 69.5% black (Table III). Obviously creating a 90.7% black Brawley perpetuates its racial identification and it is entirely unjustifiable to reject the state interim plan which would make Brawley 69.2% black, an enrollment much more nearly conforming to the demography of the area.

A similar plain pattern emerges when figures for District I as a whole are analyzed (see Tables III and IV, Maps and Tables):

(June 1970)	*% White*	*% Black*
(1) Interim Plan:		
District I	22.3%	77.6%
(2) If Chapter 31 implemented:		
(a) Scotland Neck School	57.4%	42.6%
(b) Rest of District I	14.6%	85.4%

The very considerable racial concentrations and racial disproportions which would be created by the implementation of Chapter 31 are plainly inconsistent with the goal of achieving "the greatest possible degree of actual desegregation" and of eliminating schools identified as one-race schools. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 26 (1971).

This Court made it plain in *Swann* that the "constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole" (402 U.S. at 24). We make no contrary argument, nor do we argue that there must be any particular degree of racial balance at the schools involved. But *Swann* also held that in dual systems "the need for remedial criteria of sufficient specificity to assure a school authority's compliance with its constitutional duty warrants a presumption against schools that are substantially disproportionate in their racial composition" (402 U.S. at 26). It was further stated that this presumption could only be met by a showing that continuing disproportionate schools were "not the result of present or past discriminatory action" by school

boards. 402 U.S. at 26.[25] Applying this test to Scotland Neck and Brawley presents little difficulty since their continued character as schools for whites and blacks, respectively would obviously reflect the historic dual pattern in the community. It might be noted that Judge Craven, writing for the majority below, held that the inability of Scotland Neck citizens to spend more money on education without secession justified the racial disproportion created by the separation. 442 F.2d at 583. Judge Winter, in dissent, retorted that "a community should not be permitted to buy its way out of *Brown*." 442 F.2d at 592. *Swann* made it clear that Judge Winter was correct, and that the burden to justify a continued one-race or seriously disproportionate school cannot be satisfied by such a showing where the original segregation in the institutions so plainly results from discrimination. The secession plan to

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[25] The full paragraph from which these quotations are drawn reads as follows (402 U.S. at 26):

> In light of the above, it should be clear that the existence of some small number of one-race, or virtually one-race, schools within a district is not in and of itself the mark of a system that still practices segregation by law. The district judge or school authorities should make every effort to achieve the greatest possible degree of actual desegregation and will thus necessarily be concerned with the elimination of one-race schools. No *per se* rule can adequately embrace all the difficulties of reconciling the competing interests involved; but in a system with a history of segregation the need for remedial criteria of sufficient specificity to assure a school authority's compliance with its constitutional duty warrants a presumption against schools that are substantially disproportionate in their racial composition. Where the school authority's proposed plan for conversion from a dual to a unitary system contemplates the continued existence of some schools that are all or predominantly of one race, they have the burden of showing that such school assignments are genuinely nondiscriminatory. The court should scrutinize such schools, and the burden upon the school authorities will be to satisfy the court that their racial composition is not the result of present or past discriminatory action on their part.

keep Brawley virtually all-black and Scotland Neck a school with a disproportionate and unusual concentration of whites is plainly unjustifiable under the standards of *Swann*.

E. *The Interdistrict Transfer Plans.*

Immediately after enactment of Chapter 31 a number of events occurred which had important impact on desegregation. The Scotland Neck junior high school site, located outside the town limits, would have been unavailable to the new town school system because of its location. This difficulty was solved by the new town system leasing the school from the Halifax County system for one dollar a year, and extending the district to cover 10 more acres. A. 476-477. The need for this four classroom building was related to the anticipated transfer of county residents to the town schools, an eventuality planned from the outset of the planning for the new district. The town had but 695 resident pupils and could accommodate about 1,000 students. 314 F.Supp. at 71; A. 294. The Scotland Neck School Board promptly offered to admit any county resident pupil who paid a tuition charge (with a special discount rate for families with more than one child). As expected, almost all white pupils who lived in the county but previously attended Scotland Neck promptly paid deposits to continue their attendance at Scotland Neck. By the time of the preliminary injunction hearing in August 1969—with the opening of school imminent—350 white and 10 black county resident pupils had made tuition deposits for Scotland Neck School. 314 F.Supp. at 71. Furthermore, the Scotland Neck and Halifax County School Boards agreed that for two years black pupils living within the town of Scotland Neck could, if they desired, continue to go to Brawley High School tuition free. 314 F.Supp. at 71.

Thus blacks who chose continued segregation could have it free of charge. Blacks who wanted to transfer into the town to go to an integrated school would have to pay tuition. The district judge found that "in view of the economics of the situation . . . [there was] an inability of blacks to afford the transfer fees . . ." (314 F. Supp. at 78).

The preliminary injunction against the new unit aborted the transfer scheme. Thereafter, the board filed a pleading stating that it intended to allow only transfers which conformed to the law and court orders, but rather than abandoning the idea of transfers the board sought in the Fourth Circuit to have it approved (442 F.2d at 592). The Fourth Circuit analyzed the plan in these terms:

> The net result of these transfers would have been to have 74 percent white students and 26 percent black students in the Scotland Neck system. We conclude that these transfers would have tended toward establishment of a resegregated system and that the transfer plan violates the equal protection clause of the Fourteenth Amendment. See Monroe v. Board of Commissioners of the City of Jackson, 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733 (1968). (442 F.2d 583-584; footnote omitted.)

The local effect on Brawley School and District I is even more drastic and reveals the almost complete success of the transfer plan in keeping the five black schools all black. *The transfer plan would have left the five remaining schools in District I 97.8% Black.* (Table IV, Maps and Tables.) Thus is the full dimension of the evasive scheme unveiled.

The district judge treated Chapter 31 and the transfer plan together as a package when he granted the preliminary injunction. This was necessary to deal with the realities of the situation. Months later, when writing a final

opinion, the district court still found that the secession created a "refuge for white students" and "interferes with the desegregation of Halifax County School System" even without the effect of the transfers. 314 F. Supp. 78.

F. *Other Effects of the Secession of Scotland Neck.*

Beyond the racial ratios and percentages involved, Chapter 31 had other negative effects. Of course the essence of its operation is to prevent the use of the pairing technique as a means of desegregating Brawley and Scotland Neck. These two schools three-fourths of a mile and a 5 minute bus ride apart (A. 276), serving the same grades, were naturally slated for some sort of pairing or consolidation in the event of desegregation. Chapter 31 interjects a new boundary line to prevent the use of the pairing or consolidation technique (A. 431). As such it impedes a necessary and conventional desegregation technique. *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, 27 (1971). In this respect, Chapter 31 operates similar to the way the North Carolina Anti-Bussing statute impeded the use of transportation and other necessary desegregation techniques and is unconstitutional on this ground. *North Carolina State Board of Education* v. *Swann,* 402 U.S. 43, 45-46 (1971); *cf. Lee* v. *Nyquist,* 318 F. Supp. 710 (W.D. N.Y. 1970), *affirmed per curiam,* 402 U.S. 935 (1971).

The secession not only prevents the desegregation of the traditional all-black school at Brawley, it also keeps a white majority at Scotland Neck. The district judge found that white proponents of Chapter 31 viewed it as an alternative to establishing private schools in the face of desegregation with a black majority in each school reflecting the population patterns. 314 F. Supp. at 73; A. 431. The relevant precedents made it plain to the white people of Scotland Neck that all-white private schools could receive no public

support or tuition grants.[26] Since a private school would lose public funding, a separate city unit with a more "acceptable" racial pattern was viewed as preferable by the proponents of Chapter 31. The new unit would not be all white and could thus get public tax funds. It would have a white majority because the chosen boundary embraced a white majority. Scotland Neck would become a quasi-private school for the tuition paying white residents of the County who transferred there. They would have the benefit of public funding for the school rather than attending a purely private school. Their attendance together with the financial inability of many county Negroes to pay the tuition insured the maintenance of a white majority school. Under this scheme the Scotland Neck School would be "white" enough in population to be acceptable to the whites and would have just enough blacks to enable it to achieve public financial support. It was a sophisticated evasion of the duty to desegregated public schools.

With sensitive perception, Judge Winter's dissenting opinion refers to the psychological effects on the black students of the white abandonment of the Halifax County

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[26] *Hawkins* v. *North Carolina State Board of Education*, 11 Race Rel. L. Rep. 745 (W.D. N.C., C.A. No. 2067, March 31, 1966) (three-judge court); *Griffin* v. *County School Board*, 377 U.S. 218 (1964); *Hall* v. *St. Helena Parish School Board*, 197 F. Supp. 649 (E.D. La. 1961); *aff'd*, 368 U.S. 515; *Poindexter* v. *Louisiana Financial Assistance Commission*, 275 F. Supp. 833 (E.D. La. 1967), *aff'd*, 389 U.S. 571 (1968); *Poindexter* v. *Louisiana Financial Assistance Commission*, 296 F. Supp. 686 (E.D. La. 1968), *affirmed per curiam*, 393 U.S. 16 (1968); *Lee* v. *Macon County Board of Education*, 267 F. Supp. 458, 475 (M.D. Ala. 1967), *affirmed per curiam, sub nom. Wallace* v. *United States*, 389 U.S. 215 (1967); *Griffin* v. *State Board of Education*, 296 F. Supp. 1178 (E.D. Va. 1969); *Brown* v. *South Carolina State Board of Education*, 296 F. Supp. 199 (D. S.C. 1968), *affirmed*, 393 U.S. 222 (1968); *Coffey* v. *State Educational Finance Commission*, 296 F. Supp. 1389 (S.D. Miss. 1969); *United States* v. *Tunica County School District*, 323 F. Supp. 1019 (N.D. Miss. 1970), *affirmed*, 440 F.2d 1236 (5th Cir. 1971).

system. 442 F.2d at 591; also see at 590. The approval of Chapter 31 by the court below is premised in part on the idea that the purpose of curbing or diminishing white flight from a unitary school system "is entirely consistent with and may help implement the *Brown* principle." (442 F.2d at 581) Rather than being laudable the plan is fundamentally racist in its assumptions and underlying theory. Judge Sobeloff answers this theme in *Brunson* v. *Board of Trustees of School District No. 1 of Clarendon County, S. C.*, 429 F.2d 830, 826 (4th Cir. 1970). *Brown*, he points out, was not premised on any notion that "white children are a precious resource which should be fairly apportioned," or that "black children will be improved by association with their betters" (*ibid.*). "But school segregation is forbidden simply because its perpetuation is a living insult to the black children and immeasurably taints the education they receive. This is the precise lesson of *Brown*" (*ibid.*, Sobeloff, J.). So, too, the new secessionist Scotland Neck school administrative unit would be a living insult to the black pupils of Halifax County.

Finally, the district court judgment might well be affirmed as within its power to prevent school policies from influencing residential patterns in a segregationist fashion so as to lock in school segregation in the future. It is entirely obvious that creation of the new Scotland Neck unit would encourage whites, particularly those living near the boundary, to move into the town. *Swann* says that school policies "may well promote segregated residential patterns which, when combined with 'neighborhood zoning,' further lock the school system into the mold of separation of the races." 402 U.S. at 21. District courts have the remedial responsibility "to see to it that future school construction and abandonment is not used and does not serve to perpetuate or re-establish the dual system".

(*ibid.*). The judgment of the district court requiring a desegregation plan which ignored the Scotland Neck town boundary—as it has always been ignored in the past—is well within the discretionary authority of the district court to prevent such threatened perpetuation or re-establishment of separation.

The broad discretion of the district court in formulating a remedy for the dual system includes the power to use a variety of remedial techniques, even techniques which "may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some." (*Swann*, 402 U.S. at 28.) "No fixed or even substantially fixed guidelines can be established as to how far a court can go, but it must be recognized that there are limits" (*ibid.*). We suggest that the technique of assigning pupils across district lines of administrative units established by state law—a technique long, successfully and recently used as an instrumentality of segregation—may be used as a technique of desegregation. This is particularly true in a case such as Halifax County where interdistrict transfers are a part of the tradition of the system. We think the technique may be appropriate in other instances as well, but we do not ask that the Court prejudge the question of interdistrict remedial transfers across long established or racially untainted boundaries. Cases involving such issues are being litigated in the lower courts and this case does not have the kind of record upon which to adequately judge such metropolitan integration disputes. It is enough to decide the present case to conclude as Judge Wisdom did. *Lee* v. *Macon County Board of Education*, 448 F.2d 746, 752 (5th Cir. 1971): "*New* boundaries cannot be drawn where they would result in less desegregation when formerly the lack of a boundary was instrumental in promoting segregation."

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment of the Court of Appeals should be reversed and the judgment of the United States District Court for the Eastern District of North Carolina should be reinstated.

Respectfully submitted,

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN J. CHACHKIN
10 Columbus Circle
New York, N. Y. 10019

J. LEVONNE CHAMBERS
237 West Trade Street
Charlotte, N. C. 28202

ADAM STEIN
157 East Rosemary Street
Chapel Hill, N. C. 27514

JAMES R. WALKER, JR.
501 West Third Street
Weldon, N. C. 27890

SAMUEL S. MITCHELL
126½ East Hargett Street
Raleigh, N. C. 27601

Attorneys for Petitioners

70-187

Appendix to petitioners' brief
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

Supreme Court, U.S.
FILED
DEC 31 1971
E. ROBERT SEAVER, CLER

No. 70-130

UNITED STATES OF AMERICA,
Petitioner,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

No. 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioner,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR RESPONDENTS

C. KITCHIN JOSEY
Scotland Neck, North Carolina
WILLIAM T. JOYNER
Joyner & Howison
Box 109, Wachovia Building
Raleigh, North Carolina 27602
Attorneys for Respondent Scotland Neck City Board of Education
Hon. ROBERT MORGAN
Attorney General
Hon. RALPH MOODY
Deputy Attorney General
Raleigh, North Carolina
On Behalf of Respondent State of North Carolina

COMMERCIAL PRINTING COMPANY, RALEIGH, N. C.

INDEX

PAGE

Question Presented 1

Statement 2

A. Three Determinative Facts 2

B. The Background 4

C. Chapter 31, 1969 Session Laws of North Carolina 5

D. The Vote 7

E. The Preliminary Injunction 8

F. The First Further Answer 9

G. The Advertisement for Contributions 11

H. The Hearing on the Merits and the Decision of the District Court 13

I. The Hearings and the Decision in the Court of Appeals 15

J. The Decline in School Enrollment Following the Injunction 16

Introduction and Summary of Argument 17

Argument 20

I. Four Leading Cases on Dismantling Control Disposition of This Case and Those Cases Support the Majority Opinion of the Fourth Circuit 20

A. The *Brown* Cases 20

B. The *Green* Case 21

C. The *Swann* Case 22

II. The Jurisdictional Prerequisite for the Assignment of Pupils to a School Because of Race is the

PAGE

Finding of Fact That There is a Remaining Vestige of Segregation in the Situation ---------- 24

III. The Only Vestige of Segregation to be Dismantled Here Is An Attitude, a Reluctance To Exercise Freedom of Choice; and Both White Flight and Black Flight Must Be Deterred in Order to Correct This Attitude ---------- 25

IV. The Statute Does Not Deter Dismantling. In Fact it Has Unique Merits As a Tool For Dismantlement, Namely Overcoming The Mental Attitude Which Obstructs Freedom of Choice --- 29

V. The Plan By the District Court Does Not Meet the Requirement of Reasonableness and Realism ---------- 31

VI. Reply To Some Special Points In The Briefs of Petitioners ---------- 35

Conclusion ---------- 37

Appendix A ---------- 39

Appendix B ---------- 40

Appendix C ---------- 45

Appendix D ---------- 52

Appendix E ---------- 55

CITATIONS

CASES:

Brown v. Board of Education, 347 U.S. 483 (1954) *(Brown I)* ---------- 17, 20, 22

PAGE

Brown v. Board of Education, 349 U.S. 298 (1955) *(Brown II)* ---------- 17, 20, 22

Davis v. Board of Commissioners of Mobile County, 402 U.S. 33 (1971) ---------- 16, 32

Green v. New Kent County Board of Education, 391 U.S. 439 (1968) ---------- 5, 6, 17, 20, 21, 22, 26, 27, 30.

Monroe v. Board of Commissioners, 391 U.S. 450 (1968) ---------- 5

Raney v. Board of Education, 391 U.S. 443 (1968) ---------- 5

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971) ---------- 17, 20, 22, 23, 24, 25, 35, 37

U. S. v. Scotland Neck City Board of Education, 442 F. 2d 575 (4th Cir. 1971) ---------- 2, 4, 5, 15

U. S. v. Scotland Neck City Board of Education, 314 F. Supp. 65 (E.D.N.C. 1970) ---------- 4, 14

STATUTES:

1969 Session Laws of North Carolina, Chapter 31 ---------- 5, 6, 7, 9, 14

1969 Session Laws of North Carolina, Chapter 579 ---------- 5

1969 Session Laws of North Carolina, Chapter 628 ---------- 5

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-130

UNITED STATES OF AMERICA,
Petitioner,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

No. 70-187

PATTIE BLACK COTTON, ET AL.,
Petitioner,

v.

SCOTLAND NECK CITY BOARD OF EDUCATION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR RESPONDENTS

We accept the Petitioners' statement of Opinions below, Jurisdiction and Constitutional and Statutory provisions involved.

QUESTION PRESENTED

We do not accept the statement of the issue in the brief of either petitioner. Each assumes a conclusion that the Scotland Neck plan of December 1969 would impair required desegregation. That is a question which is in issue here.

Our Statement of Question Presented is this:

Does the North Carolina statute, which the District Court and the Court of Appeals found to be an honest effort to achieve quality education, meet the requirements of this Court as a realistic "Interim Corrective Measure" to dismantle the remaining vestige of law imposed segregation in the Scotland Neck Area?

STATEMENT

A. THREE DETERMINATIVE FACTS

We find it necessary to make a statement of what we think are determinative facts.

At the threshold of such statement we call special attention to three key facts, the first of which was the subject of a mere casual reference and the second and third of which were not mentioned at all in the Statements of the petitioners. Those three key facts are:

1. The full intent and plan of operations of the Scotland Neck City Board of Education is set forth in its First Further Answer and in its published advertisement soliciting contributions to finance the defense of this lawsuit. Those papers are so important that we have put them in an Appendix to this brief. (App. A and B.).

2. The Court of Appeals found "there is nothing in the record to suggest that the greater percentage of white students in Scotland Neck is a product of residential segregation resulting in part from state action." *U.S. v. Scotland Neck City Board of Education* 442 F. 2d 575 at page 582. (App. 1115). Neither brief for the petitioners mentioned that quotation.

3. The record shows that, in the 26 months following the temporary injunction of the District Court of Au-

gust 26, 1969, 46.7% of the white students left the public schools of the Halifax County District; thereby increasing the black ratio in the district from 77.7% to 85.8%. (See Table I, App. E). Because of the importance of this fact we have placed in an appendix to this brief a copy of three affidavits of W. Henry Overman dated September 15, 1970, December 2, 1970, and October 14, 1971 (App. D).

They show school attendance in the Halifax County District by race for the school year 1970-71 and for October 1971. Again neither brief for the petitioners mentions this significant experience.

The original injunction was sought and the reversal of the Court of Appeals is now sought on the theory that by making the Black-White ratio in Scotland Neck nearly even there would be left available less white Scotland Neck students for distribution among the other schools of the district; namely that the district ratio would become 80% under the Scotland Neck plan, an increase less than 3 percentage points in the Black ratio in that remaining portion of the district.

As said above, the Halifax County district *ratio* in the twenty-six month period following the injunction was *increased* from 77.7% Black in 1968-69 to 85.8% in 1971-72. (See Table I, App. E).

The District Court erred in not making a realistic appraisal of the prospective student flight.

We submit that the impact of those three facts is strong.

Hereafter in the argument portion of this brief, (infra. p. 20), we shall point out that the law heretofore declared by the Supreme Court supports rather than invalidates the North Carolina Statute.

In the following statement it will be necessary to repeat some of the facts in Statements for the Petitioners in order that the facts which we think are so important may be under-

stood in their proper context. We will attempt to hold repetition to a minimum.

B. THE BACKGROUND

We have adopted the statement of facts in the District Court opinion 314 F. Supp. 65 at 67 (E.D. N.C. 1970), (App. 1062) and in the majority opinion in the Court of Appeals 442 F. 2d 575 (4th Cir. 1971) (App. 1104). We will call attention to some additional facts and will present them argumentatively.

The District Court found: "Scotland Neck, a small town with a population of approximately 3,000, is located in the southeastern corner of Halifax County, a rural and agricultural region of North Carolina which has a predominantly black population. The population of the town itself is approximately 50% white and 50% black." 314 F. Supp. 65 at 67. (App. 1063).

The people, black and white in the area have cooperated closely and have enjoyed and are enjoying excellent racial relations. (App. 436).

The residential patterns of Scotland Neck and of the surrounding territory have not been caused by State action. The Court has so found. The majority of the Court of Appeals said in its opinion "There is nothing in the record to suggest that the greater percentage of white students in Scotland Neck is a product of residential segregation resulting in part from State action." 442 F. 2d 575 at 582. (App. 1015.)

With its economic and geographic attributes it appears certain that Scotland Neck must achieve and must maintain two objectives, one, good schools, and two, good racial relations.

That background lends meaning to all that was done by the people of Scotland Neck as recorded in this case, by the

Legislature of North Carolina and by the Scotland Neck City Board of Education.

C. CHAPTER 31, 1969 SESSION LAWS OF NORTH CAROLINA

The Majority Opinion in the Court of Appeals describes carefully and accurately the struggle of the people in Scotland Neck to get a better school and their frustration at the hands of the County School Board and of the Legislature. Those efforts antedated the decisions of this Court in *Green v. School Board of New Kent County*, 391 U.S. 430 (1968), *Rainey v. Board of Education*, 391 U.S. 443 (1968) and *Monroe v. Board of Commissioners*, 391 U.S. 450 (1968). The Majority Opinion says "Local control and increased taxation were thought necessary to increase the quality of education in their schools. Previous efforts to upgrade Scotland Neck schools had been frustrated." 442 F. 2d 575 at 580. (App. 1104).

Early in the 1969 Session of the North Carolina Legislature the legislative act here in question was enacted (March 3, 1969, Chapter 31, 1969 Session Laws). That statute was not a part of a package. It stood alone. It antedated the Warrenton School Bill enactment (May 23, 1969, Chapter 579, Session Laws of 1969) and the Littleton-Lake Gaston Laws (May 26, 1969, Chapter 628, Session Laws of 1969). Both the Scotland Neck proponents and the Legislative enactors of the bill must have been familiar with the *Green* case and its companion decisions. They must have concluded that the Scotland Neck bill met the requirements of those decisions.

They knew that the Supreme Court of the United States in a unanimous opinion in the *Green* case had said "There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case . . . Moreover, whatever plan is adopted will require evaluation in practice, and the Court should retain jurisdiction until it is clear that state imposed segregation has been completely removed." 391 U.S. 430 at 440-41 (1968).

Further they knew that the *Green* case said "Where it offers real promise of aiding a desegregation program to effectuate conversion of a state-imposed dual system to a unitary, nonracial system there might be no objection to allowing such a device to prove itself in operation. On the other hand, if there are reasonably available other ways, such for illustration as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, 'freedom of choice' must be held unacceptable," 391 U.S. 430 at 442, and "The Board must be required to formulate a new plan, and, in light of other courses which appear open to the Board, such as zoning, fashion steps which promise realistically to convert promptly to a system without a 'white' school and a 'negro' school, but just schools." 391 U.S. 430 at 442.

The proponents and the legislative enactors also knew that as a footnote to the quotation last given above the Court had said "In view of the situation found in New Kent County, where there is no residential segregation, the elimination of the dual school system and the establishment of a 'unitary, nonracial system' could be readily achieved with a minimum of administrative difficulty by means of geographic zoning—simply by assigning students living in the eastern half of the county to the New Kent School and those living in the western half of the county to the Watkins School." 391 U.S. 430 at 442, N. 6.

The proponents and the enactors knew that an authoritative spokeswoman for the Federal Department of Health, Education and Welfare had made public announcement, which was in the press and was put into this record, that the Department had no interest in the Halifax County bill if it treated Blacks and Whites alike. (App. 776.)

Further the proponents and the legislators knew (and acted on that knowledge) that the thrust of the Halifax County bill, its scope and its certain effect, was to set up a

school district with about a 57% white pupil residence and 43% black pupil residence. They knew that they were to be treated precisely alike, that there would be no discrimination. They knew that the structure of state-imposed segregation within the borders of Scotland Neck would be totally and completely demolished.

The Legislators also knew that the *operation* under the Halifax County Bill and all matters of administration such as the making of transfers in and out of the Scotland Neck School would be under the certain and careful supervision of the Federal District Court for the Eastern District of North Carolina. They knew that no child could be transferred from the Scotland Neck School to a Halifax District School against the wishes or requirements of the Court.

So, the Legislators stopped at the establishment of the district. Thereafter, transfers and other administrative matters were problems between the Scotland Neck City Board of Education and the Halifax District Board of Education and the District Court for the Eastern District of North Carolina.

The intent of the Legislature was plain. It was the enactment of the bill, which speaks for itself. That bill accomplished the purpose of the Legislature completely. In a later section (infra p. 13) we will discuss "Motivation", including a desire to deter the withdrawal of students from the public school system.

D. THE VOTE

Following the passage of the statute there was held a vote of the people. They approved and accepted the terms and conditions of the bill and authorized a special school tax of 50c on the $100 of property valuation within the boundaries of Scotland Neck.

There are three things which we underscore about that vote which occurred on April 8, 1969:

1. More people voted than had ever voted before in a Scotland Neck election (Deposition of Henry L. Harrison, p. 16).

2. The affirmative majority was very unusual — 71%. (App. 1062).

3. It is a matter of general knowledge that any approval of a special school tax in North Carolina is very rare these days.

After the resounding approval by the voters the Scotland Neck City Board of Education proceeded to prepare for the opening of its school.

E. THE PRELIMINARY INJUNCTION

On June 16, 1969, complaint was filed in the District Court of the United States by the United States Department of Justice against the Halifax County Board of Education.

That complaint sought relief on three grounds stated essentially as follows:

> 12. The enactment and implementation of Chapter 31 commands, encourages and fosters segregation based on race or color in the operation of the public schools of Halifax County.
>
> 13. Chapter 31 sets up a separate school system which, on grounds of its size and pupil enrollment, has no educational justification.
>
> 14. The enactment and implementation of Chapter 31 . . . denies equal protection of the laws to Negro children of school age residing in the jurisdiction of the Halifax County Board, outside the boundaries of Scotland Neck, in violation of the Fourteenth Amendment to the United States Constitution. (App. 29).

On July 17, 1969, petitioner for the first time filed motion for preliminary injunction. (App. 39). The Scotland Neck

City Board of Education (hereinafter called the School Board) was not made a party at the time of the filing of the Complaint. On August 16, 1969, the School Board and its members were notified that they had been made parties and that a preliminary answer must be filed by August 20, (App. 60), and that a hearing on a motion for a preliminary injunction would be held in Raleigh, North Carolina on August 21. (App. 60). On August 21 those defendants found that they faced a two Judge District Court, composed of Chief District Judge Algernon L. Butler and District Judge John D. Larkins (in whose division Scotland Neck lies). After hearings on August 21, 22 and 23 the two Judge Court, on August 25, entered a preliminary injunction against the School Board, stopping all of its activities. (App. 788-89).

The August 25th Order establishing the Preliminary Injunction made it clear that the District Court was not declaring the statute unconstitutional. Rather it condemned the effect of the operation of the transfer provision. The District Court said in its memorandum opinion pursuant to the order, "without determining the constitutionality of Chapter 31 of the 1969 Session Laws of North Carolina, the act in its application creates a refuge for white students and promotes segregated schools in Halifax County." (App. 792).

F. THE FIRST FURTHER ANSWER

On September 3, 1969, the City Board of Education, with permission by the Court filed an Amended Answer, supplanting the answer which it had hurriedly prepared and filed on four days requirement by the District Court. We submit that the allegations of that Answer and the filing of that Answer are so important in determining the issues in this appeal that we included in an appendix to our brief, for ready reference, an EXCERPT FROM that First Further Answer (App. A). We call to the special attention of this Court paragraph 8 and the prayers of that Answer which read as follows:

8. It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the Town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court.

WHEREFORE, this Defendant respectfully prays that:

1. The Court declare to be constitutional Chapter 31 of the 1969 Session Laws of North Carolina;

2. The Court dissolve the temporary injunction heretofore issued in this cause on the 25th day of August, 1969;

3. The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant to the Court and for the hearing of any objection that may be filed thereto.

We submit that, by such filing and such commitment by the Defendant Board, it severed the question of the possibility of contaminating performance from the question of the constitutionality of the statute. Thereafter transfer performance was not to be made by the Board first and subject to attack if opponents desired, but, rather, was to be made only after approval by the Court of what was to be done. That is a unique and distinctive feature in this case.

Furthermore, we submit that by that action the City Board fortified its contention with respect to the intent of the proponents of the statute, namely that the improvement

of the quality of education was the central dominant motivating factor of the proponents of the bill. The Board, in essence, was saying plainly and convincingly that we will take as the basis of a new and better school the residents within the borders of Scotland Neck together with special tax money and local control; these will be our prime working tools for school betterment; beyond those basic essentials we will proceed only in such manner as shall receive the prior approval of the Court.

We submit that, when this matter was presented to the District Court for determination on its merits in December 1969, there was presented only the question of the constitutionality of the statute.

G. THE ADVERTISEMENT FOR CONTRIBUTIONS

The Temporary Injunction had tied the hands of the City Board in every respect, including the denial of the use of any of the tax money to defend this suit. Defense had to be financed, if at all, by public contributions. On October 10, 1969, the Scotland Neck City Board caused to be printed in the newspaper published in that community, *The Scotland Neck Commonwealth*, an advertisement soliciting contributions in aid of defense of the pending suit. That advertisement was signed by the Chairman and each other member of the Board. It was evidence of the publicly proclaimed intent of the Board. It was offered and received in evidence in the District Court. (App. 964). We think that the contents of that advertisement are so important with respect to motive, intent and future operations that they are worthy of special attention. We have included a copy of that advertisement in Appendix B to this Brief. We here call the Court's special attention to the language as follows:

1. The special act sets up a special school district with lines which are just the same as those of the long existing city limits. There is no change in the lines.

2. The district embraces all children of school age living in our Scotland Neck Community. It is contemplated by the Statute, it is required by law, it is the intent of this Board that every child living in this community shall be treated just the same, regardless of race, creed or color. There will be no segregation under our operation.

3. The basic school population of our community, would be approximately 57% white and 43% negro. We do not know of any complaint which has ever been made anywhere of such a ratio.

4. Transfers out of or into the Scotland Neck Schools would be made in accordance with a plan or plans of transfer to be prepared by our board and filed with the Court, in order that any objections to such plans could be made to the Court and heard by it.

5. Every operation of our Board would be in the plainest kind of a spotlight, in the spotlight of public opinion and the spotlight of Court observation.

6. It is the firm intent of our Board, and the firm intent of the people of Scotland Neck to make our new School District Work, to make ours an outstanding school, not a "segregated school," not an "integrated school," but just a school "for all of our children without regard to race, creed or color."

7. It is our firm conviction that the successful operation of "just a school" would be good for our community of Scotland Neck, good for our County of Halifax, good for our State and good for our Nation. The welfare of Scotland Neck, and possibly its survival, depend upon the success of just such a school." (App. B.)

H. THE HEARING ON THE MERITS AND THE DECISION OF THE DISTRICT COURT

Approximately three months after the filing of the First Further Answer and approximately two months after the advertisement soliciting defense funds, the matter was heard on the merits in the District Court on December 17-18, 1969. At that hearing there were presented exhibits, depositions and witnesses as appear in the record. We call special attention to one phase of that record. It shows that the defendant City Board of Education presented as a witness and examined Chairman Shields of the Scotland Neck City Board of Education. His testimony is set forth in App. 961-965 and is reproduced as Appendix C to this brief: Mr. Shields covered the subjects of the statements made by his board in its First Further Answer and in the Advertisement for Contributions. He testified as to the quality of the community support. At the conclusion of his testimony he was tendered for cross examination. Counsel for plaintiffs said "No questions, your honor." (App. 965). Immediately after the testimony of Mr. Shields the other four members of the Scotland Neck City Board of Education were sworn and presented as witnesses. They were requested to raise their hands if they agreed with the testimony given by Mr. Shields. The record (App. 966) (reproduced here as Appendix C to this brief) shows that "each member of the board held up his hand." That page of the record shows that those four witnesses were tendered for examination by the Court and for cross examination. The record shows that counsel for plaintiffs stated "No questions." It further shows on that same page that no question was asked by either member of the Court.

In addition to that most convincing acknowledgment of the sincerity of the members of the Board and of the truth of their expressions, we call attention to the next impressive fact; that at the hearing on December 17-18, 1969, the plaintiffs did not produce one witness who questioned the

honesty of those Board members or the truth of anything that they had said in either of those important documents or on the stand at the hearing.

We call attention to the fact that at no time did plaintiffs produce even one witness who was a resident of Scotland Neck and who questioned the sincerity of the objective to achieve a better school or who complained about either the enactment of the statute or any contemplated operation under it.

The District Court excepted, from its consideration of the constitutionality of the Statute, the performance matters which occurred prior to the filing of the First Further Answer. It did find that the Statute ". . . interferes with the desegregation of the Halifax County School System, in accord with the plan adopted by said board to be implemented on or before June 1, 1970," 314 F. Supp. at 78. (App. 1083). Necessarily, operation under the Statute would require a change of the plan made for a district which embraced Scotland Neck. The District Court made no effort to compare the quality of the "interim corrective measure" presented by the plan which had theretofore been adopted for the whole district and the desegregation which would occur under the Statute.

The District Court made very plain what was the sole basis for its decision. It said:

> Therefore, this Court's findings of fact that the legislative bill creating the district *was at least partially motivated by a desire to stem the flight of white students from the public schools, the Court must* find that the act is unconstitutional and in violation of the Equal Protection Clause of the 14th Amendment and *must* enter permanent injunctive relief for the plaintiff. 314 F. Supp. at 78. (Emphasis added.) (App. 1084).

I. THE HEARINGS AND THE DECISION IN THE COURT OF APPEALS

In due course the appeal from the District Court was heard on September 16, 1970, by a panel of the Court of Appeals consisting of Judges Boreman, Bryan and Craven. Subsequently by order of the Court there was an oral argument on December 7, 1970, before the full Court sitting *en banc*.

On March 23, there was a decision by the majority of the Court, 442 F. 2d 475 (4th Cir. 1971) (App. 1104). The opinion was by Judge Craven. Dissents were filed by Judges Sobeloff and Winter. 442 F. 2d at 588. (App. 1126).

We think it would serve no useful purpose to repeat in any detail the points of the opinions. The differences of opinion between the majority and the dissenters were made clear.

The majority speak of desegregation.

The dissenters speak of integration.

The majority speak of flexibility in handling the problems of dismantling.

The dissenters speak of rigidity of treatment and of fixed ratios.

The majority speak of danger of flight of students to private schools.

The dissenters do not speak at all about the danger of flight of students to private schools.

The opinions of the majority are more persuasive and more realistic than are the dissents. The majority looked toward peace and cooperation, progress and better education.

J. THE DECLINE IN SCHOOL ENROLLMENT FOLLOWING THE INJUNCTION

The enrollment figures for the Halifax County School District for the school year 1968-69 were Black 8196 (77.7%) and White 2357 (22.3%). (Overman deposition—App. 219) (Table I, App. E).

The enrollment figures for the Halifax County District for the school year 1970-71 and for the school year 1971-72 were furnished by affidavits of Superintendent Overman. They are three in number dated September 15, 1970, (App. 1100), December 2, 1970, (App. 1102), October 14, 1971, (App. 1153). The first two were put into the record before the Court of Appeals without objection. The third was added to the record of the Court of Appeals by consent and Stipulation of Counsel. (as appears in footnote App. 1153). The admission and consideration of these three affidavits appears to be in accord with the language and action of the Court in *Davis v. Board of Commissioners of Mobile County*, 402 U.S. 33 (1971) at page 37 where the Court said: "These figures are derived from a report of the school board to the District Court; they were brought to our attention in a supplemental brief for petitioners filed on October 10, 1970, and have not been challenged by respondents." Thereafter the Court said, page 37, "The measure of any desegregation plan is its effectiveness."

Because of the significance of these three affidavits in our presentation of our case we have attached them to this brief as Appendix D.

The enrollment figures for that same district on September 15, 1970, were Black 7716 (84.3%) and White 1446 (15.7%). (Overman affidavit—App. 100). The enrollment figures for the same district on October 14, 1971, were Black 7585 (85.8%) and White 1255 (14.2%). (Overman affidavit App. 1153) (Added to record by stipulation of the parties). In the 26 months from the signing of the injunc-

tion to October, 1971, 1102 white pupils (46.7%) and 611 black pupils (7.5%) had disappeared from the district schools (computation from Table I, App. E).

INTRODUCTION AND SUMMARY OF ARGUMENT

The law decisive of the issue here is declared in the *Brown* cases, the *Green* case, and the *Swann* case. The *Brown* cases (1954, 1955) struck down all laws requiring segregation in the public schools.

The *Green* case (1968) required that there be dismantled every identified remaining vestige of law imposed segregation. It spoke of the uprooting of the causes for the failure of freedom of choice to work. It warned of the variety of conditions to be met and of their complexity. It ordered flexibility of treatment and the exercise of discretion and realism.

The *Swann* case (1971) reflected experience under the *Green* case. It declared that the jurisdiction of the Court in this vestige uprooting process was equitable in nature; that jurisdiction in a specific case must be based on the identification of the vestige; that any Court-directed pupil assignment, made on the basis of race is " . . . an interim corrective measure." It was made plain that such interim corrective measure was to be directed to the uprooting or removal of the causes of such remaining vestige.

The only identification, in this case, of a remaining vestige of law imposed segregation was that nearly all of the black pupils resident in the Scotland Neck City limits had failed to exercise a choice to go to the Scotland Neck school and that many white pupils residing in rural areas outside of Scotland Neck had chosen to attend the Scotland Neck school.

Admittedly some "interim corrective measure" was indicated if the requirements of this Court were to be met.

Any such measure must be fashioned in a manner to tend to correct the causes of failure of the pupils of each race to exercise normal and race-oblivious choice of schools.

Before fashioning any such corrective measure there must be a careful search for those causes.

Here is the heart of this case.

Obviously the most proximate cause of the failure of pupils resident in the Scotland Neck area to exercise freedom of choice was the reluctance of those pupils, of each race, to attend a school in which the pupils of another race are heavily predominant in numbers.

So, a search must be made for the causes of such reluctance.

The readily apparent cause is the feeling or fear that a small minority group of students, black or white, would face isolation, hostility, danger of physical injury, and an education not fashioned properly for that small minority group.

Any realistic interim corrective measure must be directed toward removing or abating those fears on the part of the people of each race.

The Scotland Neck Plan would have the following favorable forces working for it:

1. The school attendance zone follows a natural residential patern.

2. The students resident in that district are very nearly evenly divided racially.

3. There would be special tax money for the making of a better school.

4. There would be strong neighborhood support for the well balanced school.

5. The balanced condition of the races would tend to deter flight from the public schools of the district by both whites and blacks.

6. The Scotland Neck school has the realistic aspect of working now and of being permanent.

7. A successful school in Scotland Neck could become an observed success and tend to abate racial distrust through the local area, through the Halifax District and beyond.

On the other hand, the Court enforced plan which it put into effect would have marked disadvantages in each of those seven fields.

1. It does not follow a natural residential patern.

2. It does not achieve one school in which there would be a nearly even white-black ratio.

3. There would not be generated any additional money for the improvement of any school.

4. It weakens rather than strengthens the neighborhood support.

5. It would tend to increase both white and black flight from the schools.

6. It does not reflect a realistic approach and does not have any aspect of permanence.

7. It could not succeed and its failure would increase racial distrust in the whole district rather than abate it.

The experience of the Court-adopted plan proves the defects which we have listed above. In the 26 months following the August 26, 1969, injunction issued by the District Court 46.7% of the white pupils and 7% of the black pupils disappeared from the Halifax County School District. (Computation made from the figures taken from Table I, App. E).

ARGUMENT

I.

FOUR LEADING CASES ON DISMANTLING CONTROL DISPOSITION OF THIS CASE AND THOSE CASES SUPPORT THE MAJORITY OPINION OF THE FOURTH CIRCUIT

This case is unique on its facts. We know of no other similar case which has been decided by this Court.

It is our contention that the issues in this case are controlled by what this Court has said in the four leading cases on dismantling and that those cases indicate an affirmation of the opinion of the Court below. Those cases are:

Brown v. Board of Education, 347 U.S. 483 (1954) *(Brown I)*

Brown v. Board of Education, 349 U.S. 298 (1955) *(Brown II)*

Green v. School Board of New Kent County, 391 U.S. 430 (1968)

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (April 20, 1971)

A. THE *BROWN* CASES

The *Brown* cases struck down the bar of all state-imposed racial discrimination, discussing at length the problem of desegregation of the public schools. Much was said about the complexity of the desegregation problem, the equitable nature of the remedy and the need of flexibility in the application of the equitable remedy. It was made clear that there was no rigid formula for desegregation and that discretion should be left to the decision of the administrative

bodies and the lower courts. The *Brown* cases made it clear that the Court had jurisdiction to desegregate but that it had no jurisdiction to integrate, to mix the races for the sole purpose of achieving some desired balance. The Court was very careful in those two decisions to confine its opinion and mandate to desegregation. It spoke only of desegregation.

B. THE *GREEN* CASE

Green v. School Board of New Kent County, 391 U.S. 430 (1968), marked the pronouncement of a new and difficult concept. The Court said that Freedom of Choice had failed to accomplish the desired desegregation in many instances. The Court held that it was not sufficient to destroy the laws requiring or supporting segregation. It held that the Court had the duty and that it had the equitable power to require that discriminatory conditions caused by law imposed segregation be undone.

Again the Court made it very plain that the jurisdiction of the Court was founded on illegal segregation, and that its action was limited to requiring the correction of conditions resulting from illegal segregation. The Court described specifically its field of action as the undoing of the remaining vestiges of condemned segregation.

Again the Court emphasized the variety of possible remedies, the necessity of flexibility, the discretion to be left to local administrative authorities and to the lower courts. It even spoke of trial and error methods. It strongly commanded realism in judgment and the search for a plan "that promises realistically to work, and promises realistically to work *now*." 391 U.S. at 439.

The Court said at page 439:

> The obligation of the District Court, as it always has been, is to examine the effectiveness of a proposed plan

> in achieving desegregation. There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case . . . Moreover, whatever plan is adopted will require evaluation in practice, and the Court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed.

In footnote 6 at page 442 the Court pointed out that the Kent County problem could be solved by geographic zoning. In that respect the facts of *Green* are similar to the facts in the *Scotland Neck* case.

The Court in *Green,* as in *Brown I* and *Brown II,* was careful to speak of desegregation rather than of integration.

C. THE *SWANN* CASE

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (April 20, 1971) applied, with elaboration, the pronouncements of the *Brown* cases and of the *Green* case. It applied those principles to reasonable busing of students to achieve the dismantling of a law imposed segregated structure. Again the Court spoke carefully of desegregation and avoided the term integration. It adhered to and emphasized the pronouncement that jurisdiction was founded on the need for dismantling a remaining vestige of law imposed segregation.

With respect to flexibility of a remedy the opinion in the *Swann* case quoted from *Brown I* as follows:

> In fashioning and effectuating the decrees, the Courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs, 402 U.S. 1 at 12.

On page 15 the Court said " . . . the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."

In the *Swann* decision the Court said:

> The District Court held numerous hearings and received voluminous evidence. In addition to finding certain actions of the school board to be discriminatory, the *Court also found that residential patterns in the city and county resulted in part from federal, state, and local government action other than school board decisions.* (emphasis added) 402 U.S. 1 at 7.

Again we think it important here to emphasize the fact that the District Court in the Scotland Neck case did not make any such finding. Furthermore the Court of Appeals majority found "there is nothing in the record to suggest that the greater percentage of white students in Scotland Neck is a product of residential segregation resulting in part from state action", 442 F. 2d 575 at 582. (App. 1115).

The Court in the *Swann* case approved the order of the District Court requiring busing of students to achieve a dismantling result as action within the sound discretion of the District Court. It is most important here, we think, to point out that that approval was reached on the basis of a District Court Finding of Fact that the Charlotte residential patterns had resulted in part from state-imposed segregation.

On page 28 the Court made this important and entirely clear statement, "absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis."

The Court said:

> The District Judge went on to acknowledge that variation from that norm may be unavoidable. This contains

> intimations that the "norm" is a fixed mathematical racial balance reflecting the pupil constituency of the system. If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach, would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole. 402 U.S. 1 at 23-24.

As we view the *Swann* case it held plainly that the constitution does not require the same ratios in all areas of a district and the constitution does not require assignments out of a residential area in the absence of a distortion of residential patterns caused by state-imposed segregation. As we understand it, the principal point in the *Swann* case is that the constitutional powers of assignment out of residential areas cannot be supported by a mere desire for mixing; it can only be supported by the necessity to dismantle some remaining part of a segregated structure.

Since residential patterns in Scotland Neck were not caused in any respect by state-imposed segregation, no vestige of the segregated structure would remain in the Scotland Neck District.

II.

THE JURISDICTIONAL PREREQUISITE FOR THE ASSIGNMENT OF PUPILS TO A SCHOOL BECAUSE OF RACE IS THE FINDING OF FACT THAT THERE IS A REMAINING VESTIGE OF SEGREGATION IN THE SITUATION

At the very outset of the consideration of the merits of the issue in this case we are faced with a confusing paradox.

The wrong to be remedied was school segregation based only on race.

So there is the appearance of correcting one wrong by the imposition of another wrong.

About this situation the Court said this in *Swann* under its subheading "(3) *Remedial Altering of Attendance Zones.*" "As an interim corrective measure, this cannot be said to be beyond the broad remedial powers of a Court. Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis." 402 U.S. at 27-28 (1971).

So, we look to see what, in the Scotland Neck case is a remaining vestige of law imposed segregation which must be corrected.

III.

THE ONLY VESTIGE OF SEGREGATION TO BE DISMANTLED HERE IS AN ATTITUDE, A RELUCTANCE TO EXERCISE FREEDOM OF CHOICE; AND BOTH WHITE FLIGHT AND BLACK FLIGHT MUST BE DETERRED IN ORDER TO CORRECT THIS ATTITUDE

Before the statute in this case was enacted there was visible a remaining vestige of law imposed segregation in the Scotland Neck District. With a residential black student population of about 299 only 40 had chosen to go to the Scotland Neck school. (App. 732). Further, a large number of white students living beyond the borders of Scotland Neck had seen fit not to attend the rural school near to them, but had chosen to attend the Scotland Neck school.

To correct that situation temporarily would be simple, by assigning all students resident in Scotland Neck to the Scotland Neck School and to control the transfers of nonresident white students seeking to enter the Scotland Neck School.

Whether that would be acceptable as a proposed dis-

mantling would seem to necessitate inquiry as to the root cause of the situation to be corrected. That raises the question why Freedom of Choice had failed to work in that area.

To discuss that question with clarity it is necessary to take a long, hard and realistic look at the situation in order to try to find what remnant or root of segregation is the focal point for the dismantling procedure.

We look closely at the controlling case, *Green v. School Board of New Kent County,* 391 U.S. 430 (1968). What was the root cause of the situation which gave the Court such concern there? It was a mental attitude.

In New Kent County as in Scotland Neck, it had been made plain that Black students were not going to exercise their freedom of choice to go to a heavily predominant white school. It is just as plain that white students were not going to exercise their freedom of choice to go to a heavily predominant black school. So, Freedom of Choice failed to work effectively because of the mental attitude of people, the black and white students and their parents, because of their reluctance to exercise that freedom.

We have not found that this Court has ever undertaken to make any statement as to precisely what was the feeling concerning that reluctance.

Neither the District Court nor the Court of Appeals nor the petitioners in this case have undertaken to analyze the *causes* of that mental attitude, the causes of that reluctance to exercise Freedom of Choice.

However, the *Green* case approached the problem in a footnote *(Green v. School Board of New Kent County,* 391 U.S. 430 at 440 N. 5). That footnote indicated the nature and some possible causes of that reluctance.

We do not undertake, and we are not qualified to under-

take, a thorough analysis of mental attitudes. However some significant conclusions seem to be clear.

We submit that it is demonstrated by the record in this case and by the opinion in the *Green* case that both the Black students and the White students, and their parents, hold the following firm mental apprehensions or fears, whether justified or not:

That a small minority group of students, Black or White, would face isolation, hostility, danger of physical injury and an education not fashioned properly for that small minority group.

It is certain, we submit, that each of those fears or thoughts has been created or intensified by the law imposed segregation of the past.

To be realistic, we submit that those mental conditions or fears constitute a plank or a rafter or a root of segregation structure which the *Green* case and this case seek to dismantle.

An attitude cannot be changed by mandate or by compulsion to action. Either provokes resistance. A change of attitude can come only from experience and/or observation.

So, the courts in the *Green* case and its companion cases have gone to the extreme length of assigning children to schools because of their race in order that experience and observation may correct the mental attitude, may eliminate the reluctance to exercise Freedom of Choice.

The dissolving of the fears we have mentioned can be accomplished only by experience and/or observation. The students of each race must learn that whites and blacks can associate in schools with profit, that they can achieve mutual respect and dignity and a desire to cooperate in securing quality education.

We submit that "any interim corrective measure" directed toward resolving those fears or prejudices, must be directed to the children and parents of both races. The "reluctance" which we have mentioned is as objectionable in the mind of the white child as it is in the mind of a black child. To attempt to correct it in the black mind without giving any consideration to correction in the white mind will certainly cause the corrective measure to fail of its purpose.

We submit that in any realistic appraisal of the chances for success of a proposed corrective measure, consideration must be given the potential result of such corrective measure on white or black flight from the schools.

The "flight" from the public schools for a substantial number of white or black students to avoid the impact of a proposed corrective measure, will augment rather than diminish the racial distrust which constitutes the "remaining vestige of law imposed segregation" in the Scotland Neck area.

The massive flight of white students from a school is certainly going to cause an increase of racial fears, distrust and animosities. That will surely threaten the achievement of the desired dismantling and impair the quality of the education.

A consideration to deter threatened white or black flights is a good consideration and not an evil consideration. If there is a realistic threat of any such "flight" it cannot be ignored.

In the District Court it was not ignored. It was the basis for the erroneous condemnation of the statute by that District Court. We submit, as the Court of Appeals found, that that basis was entirely unsound. That was the crucial error made by the District Court.

In the opinion of the majority of the judges on the

Court of Appeals the prospective "white flight" was not ignored. It was a cause for great concern to that majority.

In the dissenting opinions in the Court of Appeals the white flight was ignored.

In the briefs for both the petitioners the negative effects of white flight on dismantling and on quality education have been ignored.

Each petitioner takes completely inconsistent positions.

In both briefs the petitioners applaud the dissenting opinions of the Court of Appeals Justices who condemned the statute because it would keep approximately 400 white students in their home school in Scotland Neck (a 50% white ratio) rather than distributing approximately 300 of those white Scotland Neck students to "black schools" to raise the ratio in those schools about 3 points. They spent scores of pages on that argument. They base their whole case upon the prospective, corrective effect on the district, of assigning 300 white students to schools beyond the borders of Scotland Neck. Their total argument is based on the value to the unitary movement which will come from the addition of those 300 white students to the Halifax County School District.

With complete inconsistency they shut their eyes to the loss from the Halifax County District schools of 1,102 white students who fled from the district schools following the preliminary injunction and later the permanent injunction, a loss which increased the black ratio in the district to 85.8%. (Table I, App. E).

IV.

THE STATUTE DOES NOT DETER DISMANTLING. IN FACT IT HAS UNIQUE MERIT AS A TOOL FOR DISMANTLING, NAMELY OVERCOM-

ING THE MENTAL ATTITUDE WHICH OBSTRUCTED FREEDOM OF CHOICE

To support the validity of the Statute it is only necessary to find that the statute does not go beyond the limits of the sound discretion vested in the initial administrative policy making body, here the Legislature.

We do not contend that the dismantling of segregation was a primary motive behind the Legislative action.

In actual fact the primary motive of the Legislature was better schools, to be secured by more money, local supervision and support, and the deterring of the movement of students to private schools.

But the Legislature, necessarily reached a conclusion that the Statute did meet the requirements announced in the *Green* case. So, we take a close look at the statute in the light of the *Green* case.

Possibly the best way to prove the acceptability of the statute is to compare its dismantling features with those of the District Court plan put into effect after operation under the statute was enjoined.

First we set forth what we submit are the major points of dismantling found in the Scotland Neck Statute.

a. The statute follows the lines of a natural residential pattern. The basic natural preference of a child is to attend a school in the neighborhood in which he lives. An unnatural reluctance to attend such local school can be overcome more quickly and more permanently if the effort is made in the home neighborhood. The attack should be concentrated locally.

b. A nearly even division of students between blacks and whites avoids any possible contention that such a

division embraces any assertion of superiority of either race. Such even division would lessen the fears of bodily harm by a small minority and would overcome the inevitable reaction of a small minority toward aggressive and violent self-assertion.

c. The school in Scotland Neck will receive unusually strong neighborhood support. That will help to assure the success of the dismantling process.

d. The Scotland Neck District offers the opportunity of a helpful demonstration of the achievement of peace and educational progress by cooperation in school work between blacks and whites.

e. The Scotland Neck District tends to deter the movement of students to private schools.

f. The Scotland Neck District has an aspect of permanence.

We compare the District Court Plan in the light of features stated above.

V.

THE PLAN ADOPTED BY THE DISTRICT COURT DOES NOT MEET THE REQUIREMENT OF REASONABLENESS AND REALISM

a. The District Court Plan departs radically from a natural residential pattern. Of the 400 white school children resident in Scotland Neck the District Plan and the petitioners would assign approximately 250 students outside of the Scotland Neck limits (if those students did not move out of the public school system). (App. 681, 682). They would be so assigned solely on the basis of race. That would be a cause of continued discontent, dissention and rebellion as long as it lasts.

b. The District Court Plan of assignment out of a residential neighborhood against the wishes of the assigned students would be a continual emphasis of race. The objective of increasing to 22% the ratio of white students in outlying districts invites the charge that it is an assertion of racial superiority. It adds fuel to the fire of racial antagonism.

c. The District Court Plan would not assure neighborhood support of schools. It would alienate that support.

d. The District Court Plan would offer no opportunity for any school in the district to demonstrate the achievement of peace and better education by cooperative effort. There would be only heavily dominant black schools. There would be no proof of satisfactory cooperation between blacks and whites in a district school. There would be no real working together on even terms.

e. The District Court Plan would not deter the movement of students to private schools. In fact it would accelerate and stimulate that movement, as experience has shown (See Tables I & II, App. E). Such a continued movement of white students to private schools will greatly intensify racial and class animosities.

f. The District Court Plan has no aspect of permanence. Rather, it has an open and plain aspect of a temporary unrealistic expedient.

This Court said on April 20, 1971, in *Davis v. Board of School Commissioners of Mobile County*, 402 U.S. 33 at 37.

"The measure of any desegregation plan is its effectiveness."

When so measured, the District Court plan is proved ineffective. We point to the actual experience.

We compare below the enrollment record in the Halifax County School District for the school year immediately preceding the August 26, 1969 District Court temporary injunction with the enrollment of 1971. The figures for 1968-69 are taken from the Overman deposition, (App. 219-220), and from plaintiff's Exhibit #13 (App. 727-745). The figures for October 1971 are taken from the Overman affidavit, (App. 1153) (App. D). Both sets of figures reflect actual enrollment.

ENROLLMENT IN HALIFAX COUNTY SCHOOL DISTRICT 1968-69 AND OCTOBER 1971

	White	Black	% Black
1968-69	2357	8196	77.7
1971-72	1255	7585	85.8

In that total Halifax County District the Black ratio rose 8.1 points in 26 months.

From that District, 1102 (46.7%) of the white pupils had disappeared.

From that District, 611 (7%) of the black pupils had disappeared.

The Petitioners center their attack on a geographical area in the Southeastern portion of Halifax County which they call District I. They refer to it as the [redacted]-Brawley attendance zone. In that smaller area, chosen for discussion by the Petitioners, the flight experience of both white and black pupils was much worse than in the district as a whole. That is shown by the actual enrollment figures taken from the Overman deposition and the Overman affidavit of October 1971. Those figures are as follows:

ENROLLMENT IN THE SO-CALLED DISTRICT I OF THE HALIFAX COUNTY SCHOOL DISTRICT 1968-69 and OCTOBER 1971

	White	Black	% Black
1968-69	786	2516	76.0
1971-72	322	2261	87.5

In that Southeastern section (so-called District I) of the Halifax County School District the black ratio had risen during the 26 months experience period by 11.5 points.

From that sub-district, 464 (59%) of the white pupils had disappeared.

From that sub-district, 255 (10.1%) of the black pupils had disappeared.

The white pupil disappearance in that sub-district was 45.7% greater than in the remaining Districts II and III, namely a disappearance of 59% rather than 40.5%.

In that sub-district the black pupil disappearance was 60.3% greater than in the remaining Districts II and III, namely a disappearance of 10.1% rather than 6.3%.

A substantial disappearance of the white pupils was predictable. Such disappearance had been predicted as was shown by the record in this case. In fact the District Court anticipated substantial disappearance but erroneously observed that it could not give it consideration as a factor in a desegregation plan.

It was also predictable that the disappearance in the immediate Scotland Neck area would be more severe than in the remaining Halifax County District.

Experience has now added a factor which was not predicted by any witness, that is, the substantial disappearance

of black pupils. That could be a very significant matter. The fact that the black pupil disappearance was 60.3% greater in the Scotland Neck area than in the remaining Halifax County School District (consisting of Districts II and III) plainly points to the influence of the injunction on the black pupil disappearance. It must be true that the black pupil disappearance was caused in large part by a loss of confidence in the prospective quality of the education under the court plan.

It seems clear that a prospective flight of both white and black students is an element which must be considered in fashioning a plan for the correction of the reluctance of black and white pupils to exercise their freedom of choice.

VI.

REPLY TO SOME SPECIAL POINTS IN THE BRIEFS OF PETITIONERS

The foregoing brief is the primary reply to briefs of the petitioners. There are only a few special features to which we reply additionally.

Petitioners deal with integration rather than desegregation, with mixing rather than with dismantling an identified remaining vestige of law imposed segregation. They seek forced assignments by race, in order to remove "substantial disproportion" in the racial composition of the several schools in the district. They would make substantial racial disproportion between schools a condition which must be corrected, regardless of the natural racial composition of the neighborhoods in which the schools are located. We understand the *Swann* decision to condemn such an objective.

We note in each brief for petitioners the strong emphasis on what they call the pre-*Brown* Scotland Neck-Brawley Unity. They argue that where law imposed segregation was

made easier by such unity (they call it disregard of lines) that unity should be continued in the desegregating process. It would seem that precisely the contrary should be sought. The best way to uproot the racial reluctance fostered by the old Scotland Neck-Brawley "unity" is to dismantle that unity "root and branch". The Scotland Neck Statute severs all unity with Brawley by adopting the natural residential lines of the city limits. The Scotland Neck black and white students would be held in the Scotland Neck school. The petitioners' plan would force about half of the Scotland Neck black pupils and nearly all of the Scotland Neck white pupils into the Brawley school. Such perpetuation of the Scotland Neck-Brawley "unity operation" would increase rather than abate racial discord.

Petitioners speak of the "hole in the doughnut", even though there is such a situation wherever there are city schools and county schools. Surely the division between municipal and rural schools is not of itself discriminatory.

Petitioners' briefs refer again and again to the Scotland Neck plan as creative of a "dominant white majority". That is a misuse of that word *dominant*. As a matter of fact the realistic prediction for the Scotland Neck plan is a practically even division between blacks and whites. However, even if there should be a 57% white resultant proportion that would be a majority but surely not a dominant one. To dominate means to rule, to govern. Domination could and probably would be achieved by a 80% racial ratio. Surely 57% school pupils could not be called dominant.

Again and again the briefs of petitioners speak of the creation of the Scotland Neck District as a *secession*. We do not see fit to answer that mischievous charge. We do deplore it as not being conducive to an atmosphere which must be sought if the turmoil in our schools is to be resolved.

We note the argument made by petitioners that the statute invites whites to move into Scotland Neck. We had under-

stood the *Swann* decision to refuse to consider speculation as to future residential patterns. However, it is clear that it would be the strong objective of the defendant Scotland Neck City Board of Education and of the community of Scotland Neck to achieve such a high quality school that it would attract new residents to the city, blacks and whites, and not only from the County of Halifax but from abroad. It is possible, even probable, that the Scotland Neck school operation would attract as many new black residents as new white residents.

CONCLUSION

The most significant feature of this case is this: starting with the promotion of the Statute and running through its enactment, through the December 1969 announced plan of the Scotland Neck City Board of Education, through portions of the opinion of the District Court, and through the opinion of the majority of the Court of Appeals, there is a current of concern about the quality of education in the public schools. A definite part of that concern for quality education is anxiety about the prospective flight of white students to the private schools and the consequent impairment of public education.

Those concerns carry with them the hopeful thought that the public and the courts are now recognizing that the dismantling of remaining vestiges of law imposed segregation is a matter in which whites as well as blacks have a vital interest and that both will be considered in the planning of schools for all of our children.

The next most important feature of this case is the envisioned potential of achieving federal, state and local cooperation in the process of providing interim corrective measures for the dismantling of the racial reluctance to exercise freedom of choice.

Without that hope and without that potential of coopera-

tion the path ahead would look very difficult. For the foregoing reasons, the judgment of the Court of Appeals should be affirmed.

Respectfully submitted.

C. KITCHIN JOSEY
Scotland Neck, North Carolina
WILLIAM T. JOYNER
Joyner & Howison
Box 109
Raleigh, North Carolina 27602
Attorneys for Respondent Scotland Neck City Board of Education

Hon. ROBERT MORGAN
Attorney General
Hon. RALPH MOODY
Deputy Attorney General
Raleigh, North Carolina
On Behalf of Respondent State of North Carolina

APPENDIX A

FIRST FURTHER ANSWER OF DEFENDANT SCOTLAND NECK CITY BOARD OF EDUCATION[1]

8. It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court.

WHEREFORE, this Defendant respectfully prays that:

1. The Court declare to be constitutional Chapter 31 of the 1969 Session Laws of North Carolina;

2. The Court dissolve the temporary injunction heretofore issued in this cause on the 25th day of August, 1969;

3. The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant to the Court and for the hearing of any objection that may be filed thereto.

C. Kitchin Josey
William T. Joyner
Walton K. Joyner
Attorneys for the defendant, Scotland Neck City Board of Education, a body corporate.

[1]Taken from App. 796.

APPENDIX B

ADVERTISEMENT APPEARING IN SCOTLAND NECK COMMONWEALTH

October 10, 1969

Defendant's Exhibit #4

THE SCOTLAND NECK CITY BOARD OF EDUCATION REQUESTS FINANCIAL AID IN DEFENDING ITS POSITION IN COURT

We are defendants in a lawsuit which seeks to destroy our Board. Under order of the Federal Court we may not use any public funds for the conduct of our defense. We are here requesting from the citizens of Scotland Neck donations of money for the conduct of our defense in the Court case and to refund tuition fees.

We shall state here facts of interest to you.

THE PRESENT POSTURE OF OUR LAWSUIT

On the 3rd day of March, 1969, the Legislature of North Carolina responded to the expressed desires of the people of Scotland Neck for a special school district and a special school tax to permit achievement of better schools. The Legislature created a special school district confined to the boundaries of the City of Scotland Neck and to become effective only if and when the people of Scotland Neck approved the formation of the special district and the special tax of 50 cents on the $100.00 of property valuation in the City.

On April 8, 1969, in a special election the people voted for both the special district and the special tax.

This Board was formed and engaged a superintendent

of schools and an expanded staff of teachers and made plans for the conduct of schools which, because of the availability of special funds, promised to be better than the schools heretofore afforded to the City.

On Saturday, August 16, 1969, our Board was notified that it had been made a party to a suit then pending in the Federal District Court before Judge John D. Larkins, Jr. That suit was brought by the Department of Justice of the United States on behalf of the United States. The suit challenged the constitutionality of the Statute under which our school board was created and expected to operate.

Preliminary the suit sought a temporary stay of all of our operations until there could be a final determination of the merits of the case. On August 21, 22, and 23, 1969, a hearing was held on the temporary injunction, together with a Warrenton School case and a Littleton School case before Judges Algernon L. Butler and John D. Larkins, Jr.

On Monday, August 25, 1969, both judges entered orders granting the temporary restraining order sought by the plaintiff, but did not rule on the constitutionality of the Statute. The order in our case restored the status which had existed prior to the adoption of the Statute, suspending the effectiveness of the Statute until the case could be finally determined on its merits. Precisely the order in our case said "that the defendant Scotland Neck City Board of Education and its officers, agents, employees and successors are hereby enjoined from giving any force or effect to the provisions of Chapter 31 and from taking any action pursuant to the provisions of Chapter 31 pending a final determination on the merits of the issues raised in the present action; . . ."

Under the interpretation by the court we may not use any public funds, not even the proceeds of the special tax, for the defense of our case. However, we are permitted to de-

fend the case with funds contributed by individuals for that purpose.

So, we are here asking for contributions for our defense.

There is contemplated a defense in the trial yet to be held before the Federal District Court. If we lose there, it is contemplated that we would appeal the case to the Circuit Court of Appeals for the Fourth Circuit. If we lost there, it is contemplated that we will appeal the case to the Supreme Court of the United States. We are convinced that we have a strong case and that it should be defended vigorously through all three courts, if that becomes necessary.

THE NATURE OF OUR EXPECTED SCHOOL OPERATIONS

Simply stated, it has been at all times and it is still our expectation that unless permanently restrained by court order we will achieve schools which are superior to those heretofore enjoyed in Scotland Neck. It has been our purpose, as was stated in the Statute to "improve and provide public schools of a higher standard for the residents of Scotland Neck." That is precisely what we ask the Legislature for authority to do.

That is precisely what the Legislature said it was authorizing.

That is precisely and only what we expect to do. As an example, in the short four months in which we functioned, the school faculty we employed had the highest percentage of standard certificates of any Scotland Neck School faculty in the past number of years.

Our expectation of success, both in this litigation and in the conduct of the schools, are based primarily on the foundation that we have a situation very unusual in all aspects

and completely unprecedented in some. Here are some of the facts which make our situation unusual, even unique:

1. The special act sets up a special school district with lines which are just the same as those of the long existing city limits. There is no change in the lines.

2. The district embraces all children of school age living in our Scotland Neck Community. It is contemplated by the Statute, it is required by law, it is the intent of this Board that every child living in this community shall be treated just the same, regardless of race, creed or color. There will be no segregation under our operation.

3. The basic school population of our community, would be approximately 57% white and 43% negro. We do not know of any complaint which has ever been made anywhere of such a ratio.

4. Transfers out of or into the Scotland Neck Schools would be made in accordance with a plan or plans of transfer to be prepared by our board and filed with the Court, in order that any objections to such plans could be made to the Court and heard by it.

5. Every operation of our Board would be in the plainest kind of a spotlight, in the spotlight of public opinion and the spotlight of Court observation.

6. It is the firm intent of our Board, and the firm intent of the people of Scotland Neck, to make our new School District work, to make ours an outstanding school, not a "segregated school," not an "integrated school," but just a school "for all our children without regard to race, creed or color."

7. It is our firm conviction that the successful operation of "just a school" would be good for our community of Scotland Neck, good for our County of Halifax, good for

our State and good for our Nation. The welfare of Scotland Neck, and possibly its survival, depends upon the success of just such a school.

WHAT ARE THE PROSPECTS OF SUCCESS?

First, our success in the litigation is not certain. In nearly every case in the Supreme Court of the United States in which an objector has contested a locally proposed plan of school operation the objection has been successful. However, we believe that our case is sufficiently different from all other cases so that when thoroughly understood, our District will be saved. We really believe that we can win. We are certain that we should try to win.

Second, if permitted to operate can we make the School a success?

Of that we are very certain, because of what we believe is an honest and enthusiastic determination of the people of our community to make it work.

So, we ask for your aid in presenting our case. We urge every citizen of the community to contribute to that cause, to contribute not less than the amount that his special school tax would have been this year. In cases of those able to do so we urge a larger contribution. The expense necessary to carry this case possibly through three courts will be very large.

Please make contributions to the Scotland Neck City Board of Education.

Frank P. Shields, Chairman
Martha H. Holloman
Walter T. Anderson
Aubrey Powell
Albert Burke

Send contributions to:

SCOTLAND NECK CITY BOARD OF EDUCATION
c/o Mrs. Martha H. Holloman, Treasurer
P. O. Box 340
Scotland Neck, North Carolina 27874

APPENDIX C[1]

FRANK P. SHIELDS, called as a witness by the defendant Scotland Neck City Board of Education, having been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. JOSEY:

Q. I believe you are Mr. Frank P. Shields, and you are Chairman of the Scotland Neck City Board of Education; is that correct?

A. Yes, sir.

[72] Q. Now, Mr. Shields, I believe your deposition has been taken by the Government or the plaintiff in this action back in, oh, July of 1969; is that correct?

A. Yes, sir.

MR. JOSEY: If your Honor please, I would like to announce at this time that we do not propose to go into anything here, but mainly two things that have occurred since that time.

JUDGE LARKINS: All right. When was that deposition taken, Mr. Kennedy?

MR. KENNEDY: July 24, 1969, your Honor.

JUDGE LARKINS: Very well. You may proceed.

BY MR. JOSEY:

Q. Now, Mr. Shields, I show you here what purports to be a copy of the defendant Scotland Neck City Board of Education's FIRST FURTHER ANSWER that was filed

[1]Taken from the Transcript of the December 17, 1969 Hearing on the Merits (App. 961).

sometime in September, I believe. Would you look at that, please, and be sure that is a copy of it.

A. Yes.

Q. Now, Mr. Shields, although that was not verified, it was filed by your attorneys. I'll ask you if in fact you and other members of the school board, prior to the time that this First Further Answer was filed, met and discussed this First Further Answer, and you and the school [73] board agreed that these were the facts, and that the representations made there were in fact true, and that you would abide by them; is that correct?

A. Yes.

Q. And that you stated there that, "Within the geographic boundaries of the Town of Scotland Neck there now reside approximately 751 students of school age; 56.86 percent of which are white and 43.14 percent of which are Negro." Aren't those the figures that this school board is cognizant of?

A. Yes.

Q. And you also stated there that, "The resident school population is sufficient to constitute an efficient separate school administrative unit, and the special tax funds will enable the Defendant to offer to its resident students an education system which is greatly superior to that heretofore enjoyed by them and superior to that which would be available to them if there were no such tax." And that, "Defendant made arrangements to operate such an improved school system in Scotland Neck for the school year 1969-1970." And you do now swear that that is the intention of the board, and that the board is cognizant of that fact?

A. Yes.

Q. And I'll ask you if this statement is true and [74] was

discussed with the board and is still yours and the board's representation to the Court:

"It is the present intention of this Defendant, and this Defendant makes this continuing representation, that, if and when there is removed the temporary injunction barrier preventing operation under the Statute, Defendant will confine its student body to those students residing within the geographical limits of the Town of Scotland Neck, plus or minus such student transfers as may be in conformity to the law and/or Court order or orders applicable to Defendant, and in conformity to a plan of limitation of transfers to be prepared by Defendant and submitted to this Court."

I ask you if that wasn't in fact discussed with this board, and that the board agreed that that was what they are willing to represent to the Court and do so at this time?

A. Yes.

Q. And didn't you also ask that, "The Court retain jurisdiction of this cause for the receipt of a plan of transfer to be submitted by the Defendant," or the Scotland Neck City Board of Education, "to the Court and for the hearing of any objection that may be filed thereto"?

A. Yes.

Q. Didn't you also as a city board of education—[75] will your Honor give me just one minute?

JUDGE LARKINS: Yes, sir.

BY JUDGE LARKINS:

Q. May I inquire, Mr. Shields, what is the capacity of the Scotland Neck facilities to which you say there is being projected an enrollment of 751 students?

A. I couldn't say exactly, Judge Larkins, but there are

now in attendance there about—somewhere between 830 and 850 students. And I would say it would accommodate up to—well, in the permanent classrooms probably 900.

JUDGE LARKINS: You may proceed.

BY MR. JOSEY:

Q. I show you here the defendant Scotland Neck's Exhibit 4 and ask you if that is in fact a copy of a newspaper advertisement which you and the members of this school board ran for two separate weeks in the *Scotland Neck Commonwealth* in the early part of October of this year?

A. Yes.

MR. KENNEDY: Your Honor, we have no objection to the authenticity. We admit the authenticity of all of these exhibits.

JUDGE BUTLER: Has that been marked and identified?

[76] MR. JOSEY: Yes, sir, it has already been introduced. This is just another—

JUDGE BUTLER: What is the exhibit number?

MR. JOSEY: No. 4.

JUDGE BUTLER: That's Defendant's Exhibit 4?

MR. JOSEY: Yes, sir.

Q. What I would like to ask you is if in that advertisement did you notify the entire population of the Town of Scotland Neck that the district of this city administrative unit, the Scotland Neck School, "embraces all children of school age living in our Scotland Neck Community. It is contemplated by the Statute, it is required by law, it is the

intent of this Board that every child living in this community shall be treated just the same, regardless of race, creed or color. There will be no segregation under our operation.

"The basic school population of our community would be approximately 57% white and 43% Negro. We do not know of any complaint which has ever been made anywhere of such a ratio.

"Transfers out of or into the Scotland Neck Schools would be made in accordance with a plan or plans of transfer to be prepared by our board and filed with the Court, in order that any objections to such plans could [77] be made to the Court and heard by it.

"Every operation of our Board would be in the plainest kind of spotlight, in the spotlight of public opinion and the spotlight of Court observation.

"It is the firm intent of our Board, and the firm intent of the people of Scotland Neck, to make our new School District work, to make ours an outstanding school, not a 'segregated school,' not an 'integrated school,' but just a school 'for all of our children without regard to race, creed or color.'

"It is our firm conviction that the successful operation of 'just a school' woudl be good for our community of Scotland Neck, good for our County of Halifax, good for our State and good for our Nation. The welfare of Scotland Neck, and possibly its survival, depends upon the success of just such a school."

Isn't that what you published in the paper, you and members of the board?

A. Yes.

Q. And is that your present intention, and do you represent that to the Court at this time under oath?

A. Yes, that is my intention and as far as I understand it is the intention of every member of the board.

Q. And all members are here with you at this time?

A. All members are present.

[78] Q. And what is your present appraisal of the sentiment in the community of Scotland Neck in accepting and operating the school as you and the board have set forth?

A. I feel that the community wants it. I feel that they are willing to accept the plan as outlined. I think they are willing to support the school, and their purpose is that they want a better education for their children there in Scotland Neck.

MR. JOSEY: All right, sir. Your witness.

MR. KENNEDY: No questions, your Honor.

BY JUDGE LARKINS:

Q. Did you receive any response to this?

A. Yes, sir. It was an appeal for donation of funds to finance our fight here in court, and we have received a good response I think from it.

JUDGE LARKINS: Very well. Call your next witness.

MR. JOSEY: I would like at this time, your Honor to—

If these members of the board agree with what Mr. Shields has said, hold up your hand.

I would like for the record to show that each member of the board held up his hand.

I would like to tender those other four witnesses, the

members of the Scotland Neck [79] School Board to this Court and to the Department of Justice.

MR. KENNEDY: No questions.

JUDGE BUTLER: Take a recess until 2:30.

AFTERNOON SESSION

Wednesday, Dec. 17, 1969

APPENDIX D[1]

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C.
September 15, 1970

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on September 15, 1970 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	*White*	*Negro*	*Indian*	*Total*
Aurelian Springs (K-8)	318	583	6	907
Bakers (1-8)	0	266	0	266
Brawley (1-9)	226	650	0	876
Dawson (1-8)	26	421	0	447
Eastman (8-12)	0	709	68	777
Enfield (9-12)	63	418		481
Everetts (1-8)	309	406	0	715
Hollister (1-7)	0	283	138	421
Inborden (1-8)	52	1130	0	1182
McIver (1-8)	0	565	0	565
Pittman (1-7)	2	443	2	447
Scotland Neck (10-12)	91	524	0	615
Thomas Shields (1-8)	39	222	0	261
Tillery Chapel (1-8)	10	209	0	219
White Oak (1-7)	2	302	21	325
Wm. R. Davie (9-12)	302	585	0	887
	1440	7716	—	9391

W. Henry Overman

Sworn to and subscribed before me this 15 day of September, 1970.

Doris W. Netherland
Notary Public

My commission expires: 9-9-75

[1]Taken from App. 1100, 1102 and 1153.

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839
December 2, 1970

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on December 2, 1970 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	*White*	*Negro*	*Indian*	*Total*
Aurelian Springs (K-8)	324	562	6	886
Bakers (1-8)	0	266	0	266
Brawley (1-9)	212	670	0	882
Dawson (1-8)	23	419	0	442
Eastman (8-12)	0	690	62	752
Enfield (9-12)	66	423	0	489
Everetts (1-8)	333	385	0	718
Hollister (1-7)	0	270	151	421
Inborden (1-8)	54	1117	0	1171
McIver (1-8)	0	572	0	572
Pittman (1-7)	2	446	2	450
Scotland Neck (10-12)	93	538	0	631
Thomas Shields (1-8)	34	229	0	263
Tillery Chapel (1-8)	10	209	0	219
White Oak (1-7)	12	308	22	332
Wm. R. Davie (9-12)	300	636	0	936
	1453	7740	243	9436

W. Henry Overman

WHO:ar

Sworn to and subscribed before me this 2nd day of December, 1970.

Doris W. Netherland
Notary Public

My commission expires: 9-9-75

HALIFAX COUNTY SCHOOLS

W. Henry Overman, Superintendent
Halifax, N. C. 27839
October 14, 1971

NORTH CAROLINA
HALIFAX COUNTY

W. Henry Overman, being duly sworn, says that:

1. He is Superintendent of Schools of the Halifax County School Administrative Unit, Halifax, N. C.
2. And that he has on October 7, 1971 received reports from all principals of schools in the Halifax County School Administrative Unit giving the latest enrollment of pupils by races as follows:

School and Grade	*White*	*Negro*	*Indian*	*Total*
Aurelian Springs (K-8)	333	611	8	952
Bakers (1-8)	0	241	0	241
Brawley (1-9)	174	659	0	833
*Dawson (1-8)	32	405	0	437
Eastman (8-12)	1	686	70	757
Enfield (9-12)	34	433	0	467
Everetts (1-8)	264	415	0	679
**Hollister (1-7)	1	264	151	416
Inborden (1-8)	48	1035	0	1083
McIver (1-8)	0	508	0	508
Northwest at Wm. R. Davie (9-12)	249	632	0	881
Pittman (1-7)	1	421	2	424
Scotland Neck (10-12)	70	515	0	585
Thomas Shields (1-8)	37	227	0	264
Tillery Chapel (1-8)	9	214	0	223
White Oak (1-7)	2	319	23	344
	1255	7585	254	9094

* One Oriental student included in White
** One Spanish Surnamed American student included in White

W. Henry Overman, Superintendent

Sworn to and subscribed before me this 14th day of October, 1971.

Doris W. Netherland
Notary Public

My commission expires: 9-9-75

APPENDIX E

TABLE I

PUBLIC SCHOOL ATTENDANCE IN HALIFAX COUNTY UNDER COURT ORDERED PLAN[1]

	White	*Black*	*% Black*
1968-69	2357	8196	77.7
1970-71	1453	7740	84.2
1971-72	1255	7585	85.8

1. The figures for the year 1968-69 are taken from plaintiff's Exhibit #13, (App. 726-745) and from the deposition of W. Henry Overman (App. 218), while the figures for the years 1970-71 and 1971-72 are taken from the December 2, 1970 affidavit and the October 14, 1971 affidavit, respectively, of W. Henry Overman (App. D and App. 1102, 1153). The last column in the table above gives the percentage of the total of the white and black columns. If the 102 Indians residing in District II and District III were added to these figures, the percentages would be slightly less.

TABLE II

PUBLIC SCHOOL ATTENDANCE IN DISTRICT I UNDER COURT ORDERED PLAN[2]

	White	*Black*	*% Black*
1968-69	786	2516	76.0
1970-71	372	2331	86.2
1971-72	322	2261	87.5

2. The figures for this table are taken from the same sources cited in Note 1 above; however, here the figures are only for the six schools in district I: Scotland Neck, Brawley, Bakers, Tillery Chapel, Thomas Shields and Dawson.

(Slip Opinion)

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* SCOTLAND NECK CITY BOARD OF EDUCATION ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 70–130. Argued February 29, and March 1, 1972—Decided June 22, 1972*

A state statute authorized creation of a new school district for Scotland Neck, N. C., a city that was part of the larger Halifax County school district, then in the process of dismantling a dual school system. The District Court in this litigation instituted by the United States enjoined implementation of the statute as creating a refuge for white students and promoting school segregation in the county. The Court of Appeals reversed, ruling that the statute's impact on dismantling the county dual system was minimal and that it should not be regarded as an alternative desegregation plan for the county since it was enacted by the legislature and not by the school board. *Held:* Whether the action affecting dismantling of a dual school system is initiated by the legislature or by the school board is immaterial, *North Carolina Board of Education* v. *Swann*, 402 U. S. 43; the criterion is whether the dismantling is furthered or hindered by carving a new school district from the larger district having the dual school system, and a proposal that would impede the dismantling process may be enjoined. *Wright* v. *Council of City of Emporia, ante*, p. —. Pp. 4–7.

442 F. 2d 575, reversed.

STEWART, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, WHITE, and MARSHALL, JJ., joined. BURGER, C. J., filed an opinion concurring in the result, in which BLACKMUN, POWELL, and REHNQUIST, JJ., joined.

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*Together with No. 70–187, *Cotton et al.* v. *Scotland Neck City Board of Education et al.*, also on certiorari to the same court.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 70–130 AND 70–187

United States, Petitioner, 70–130 *v.* Scotland Neck City Board of Education et al. Pattie Black Cotton et al., Petitioners, 70–187 *v.* Scotland Neck City Board of Education et al.	On Writs of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[June 22, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

The petitioners in these consolidated cases challenge the implementation of a North Carolina statute authorizing the creation of a new school district for Scotland Neck, a city which at the time of the statute's enactment was part of a larger school district then in the process of dismantling a dual school system. In a judgment entered the same day as its judgment in *Council of the City of Emporia* v. *Wright*, 442 F. 2d 570, a decision which we reverse today, *ante*, at p. —, the Court of Appeals held that the District Court erred in enjoining the creation of the new school district.

Scotland Neck is a community of about 3,000 persons, located in the southeastern portion of Halifax County, North Carolina. Since 1936, the city has been a part of the Halifax County Administrative Unit, a school district comprising the entire county with the exception

of two towns located in the northern section. In the 1968–1969 school year, 10,655 students attended schools in this system, of whom 77% were Negro, 22% white, and 1% American Indian.

The schools of Halifax County were completely segregated by race until 1965. In that year, the school board adopted a freedom of choice plan that produced very little actual desegregation. In the 1967–1968 school year, all of the white students in the county attended the four traditionally all-white schools, while 97% of the Negro students attended the 14 traditionally all-Negro schools. The school busing system, used by 90% of the students, was segregated by race, and faculty desegregation was minimal.

In 1968, the United States Department of Justice entered into negotiations with the Halifax County School Board to bring the county's school system into compliance with federal law. An agreement was reached whereby the school board undertook to provide some desegregation in the fall of 1968, and to effect a completely unitary system in the 1969–1970 school year. The State Department of Public Instruction, acting on a request from the county board, recommended a detailed plan (the "Interim Plan") for the unitary system that would have put some white students in every school in the county, and that would have left a white majority in only one school.

In January 1969, after the Interim Plan had been submitted to the county school board but before any action had been taken upon it, a bill was introduced in the state legislature to authorize the creation of a new school district bounded by the city limits of Scotland Neck, upon approval by a majority of the city's voters.[1] The bill was enacted on March 3, 1969, as

[1] An earlier bill had been introduced in the 1965 session of the legislature, which would have created a separate school district for

Chapter 31 of the 1969 Session Laws of North Carolina. The citizens of Scotland Neck approved the new school district in a referendum a month later,[2] and the new district began taking steps toward beginning a separate school system in the fall of 1969.

The effect of Chapter 31 was to carve out of the Halifax school district a new unit with 695 students, of whom 399 (57%) were white and 296 (43%) were Negro. Under a transfer plan devised by the newly appointed Scotland Neck City Board of Education, 360 students (350 white and 10 Negro) residing outside the city limits applied to transfer into the Scotland Neck schools, while 44 students (all Negro) applied to transfer out of the city system to a nearby school in the Halifax County system. The new district planned to use the facilities of the formerly all-white Scotland Neck High School, including one building located outside the city limits which would be leased from the county.

The United States filed this lawsuit in June 1969 against both city and county officials, seeking desegregation of the existing Halifax County schools.[3] The complaint asked for preliminary and permanent injunctions against the implementation of Chapter 31. Vari-

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Scotland Neck and the four surrounding townships, an area with a three-to-one Negro majority. It was contemplated that the new district would operate under a freedom of choice plan similar to that existing in the county at the the time. The bill was defeated in the State Senate.

[2] The vote in the referendum was 813 to 332 in favor of the new school district. Of Scotland's Neck's 1,382 registered voters, 360 were Negro.

[3] After the preliminary injunction was issued in this case, the District Court dismissed the Halifax County Board of Education from that part of the case dealing with Scotland Neck's efforts to implement a separate school system. On May 19, 1970, the court ordered the county school board to implement, beginning in the fall of 1970, the Interim Plan proposed by the State Department of Public Instruction, with certain modifications proposed by the school board.

ous Negro children, parents, and teachers, the petitioners in No. 70–187, were permitted to intervene as plaintiffs.

After a three-day hearing before two district judges on both this case and a similar case involving two newly created school districts in neighboring Warren County, the District Court preliminarily enjoined the implementation of Chapter 31, finding that "the Act in its application creates a refuge for white students, and promotes segregated schools in Halifax County," and further that "[t]he Act impedes and defeats the Halifax County Board of Education from implementing its plan to completely desegregate all of the public schools in Halifax County by the opening of the school year 1969–70."[4] After further hearings, the District Court on May 23, 1970, found Chapter 31 unconstitutional and permanently enjoined its enforcement. 314 F. Supp. 65. The Court of Appeals reversed, 442 F. 2d 575, and we granted certiorari. 404 U. S. 821.

The Court of Appeals did not believe that the separation of Scotland Neck from the Halifax County system should be viewed as an alternative plan for desegregating the county system, because the "severance was not part of a desegregation plan proposed by the school board but was instead an action by the Legislature redefining the boundaries of local governmental units." 442 F. 2d, at 583. This suggests that an action of a state legislature affecting the desegregation of a dual system stands on a footing different from an action of a school board. But in *North Carolina Board of Education* v. *Swann*, 402 U. S. 43, decided after the decision of the Court of Appeals in this case, we held that "if a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct the disestablishing of a dual school system, it must fall; state policy must

[4] The opinion of the District Court on the issuance of the preliminary injunction is unreported.

give way when it operates to hinder vindication of federal constitutional guarantees." *Id.*, at 45. The fact that the creation of the Scotland Neck school district was authorized by a special act of the state legislature rather than by the school board or city authorities thus has no constitutional significance.

We have today held that any attempt by state or local officials to carve out a new school district from an existing district that is in the process of dismantling a dual school system "must be judged according to whether it hinders or furthers the process of school desegregation. If the proposal would impede the dismantling of a dual system, then a district court, in the exercise of its remedial discretion, may enjoin it from being carried out." *Wright* v. *Council of the City of Emporia, ante,* at 4 (slip opinion). The District Court in this case concluded that Chapter 31 "was enacted with the effect of creating a refuge for white students of the Halifax County School system, and interferes with the desegregation of the Halifax County School system . . . ." 314 F. Supp., at 78. The Court of Appeals, however, did not regard the separation of Scotland Neck as creating a refuge for white students seeking to escape desegregation, and it held that "the effect of the separation of the Scotland Neck schools and students on the desegregation of the remainder of the Halifax County system is minimal and insufficient to invalidate Chapter 31." 442 F. 2d, at 582. Our review of the record leads us to conclude that the District Court's determination was the only proper inference to be drawn from the facts of this case, and we thus reverse the judgment of the Court of Appeals.

The major impact of Chapter 31 would fall on the southeastern portion of Halifax County, designated as District I in the Interim Plan for unitary schools proposed by the State Department of Public Instruc-

tion. The projected enrollment in the schools of this district under the Interim Plan was 2,948 students, of whom 78% were Negro. If Chapter 31 were implemented, the Scotland Neck schools would be 57% white, while the schools remaining in District I would be 89% Negro. The traditional racial identities of the schools in the area would be maintained; the formerly all-white Scotland Neck school would retain a white majority, while the formerly all-Negro Brawley school, a high school located just outside Scotland Neck, would be 91% Negro.

In *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U. S. 1, we said that district judges or school authorities "should make every effort to achieve the greatest possible degree of actual desegregation," and that in formulating a plan to remedy state-enforced school segregation there should be "a presumption against schools that are substantially disproportionate in their racial composition." *Id.*, at 26. And we have said today in *Wright* v. *Council of the City of Emporia, ante*, at pp. 11–12 (slip opinion), that "desegregation is not achieved by splitting a single school system operating 'white schools' and 'Negro schools' into two new systems, each operating unitary schools within its borders, where one of the two new systems, is, in fact, 'white' and the other is, in fact, 'Negro.'"

In this case, the disparity in the racial composition of the Scotland Neck schools and the schools remaining in District I of the Halifax County system would be "substantial" by any standard of measurement. And the enthusiastic response among whites residing outside Scotland Neck to the school board's proposed transfer plan confirmed what the figures suggest: the Scotland Neck school was to be the "white school" of the area, while the other District I schools would remain "Negro schools." Given these facts, we cannot but conclude that the implemen-

tation of Chapter 31 would have the effect of impeding the disestablishment of the dual school system that existed in Halifax County.

The primary argument made by the respondents in support of Chapter 31 is that the separation of the Scotland Neck schools from those of Halifax County was necessary to avoid "white flight" by Scotland Neck residents into private schools that would follow complete dismantling of the dual school system. Supplemental affidavits were submitted to the Court of Appeals documenting the degree to which the system has undergone a loss of students since the unitary school plan took effect in the fall of 1970.[5] But while this development may be cause for deep concern to the respondents, it cannot, as the Court of Appeals recognized, be accepted as a reason for achieving anything less than complete uprooting of the dual public school system. See *Monroe* v. *Board of Commissioners*, 391 U. S. 450, 459.

Reversed.

[5] The figures supplied to the Court of Appeals were updated by an affidavit submitted to this Court, showing the total enrollment in the Halifax County schools at the start of the 1971–1972 school year to have been 9,094, of whom 14% were white.

SUPREME COURT OF THE UNITED STATES

Nos. 70–130 AND 70–187

United States, Petitioner, 70–130 *v.* Scotland Neck City Board of Education et al. Pattie Black Cotton et al., Petitioners, 70–187 *v.* Scotland Neck City Board of Education et al.	On Writs of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[June 22, 1972]

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE BLACKMUN, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST join, concurring in the result.

I agree that the creation of a separate school system in Scotland Neck would tend to undermine desegregation efforts in Halifax County, and I thus join in the result reached by the Court. However, since I dissented from the Court's decision in *Wright* v. *Council of the City of Emporia, ante,* at p. ——, I feel constrained to set forth briefly the reasons why I distinguish beween the two cases.

First, the operation of a separate school system in Scotland Neck would preclude meaningful desegregation in the southeastern portion of Halifax County. If Scotland Neck were permitted to operate separate schools, more than 2,200 of the nearly 3,000 students in this sector would attend virtually all-Negro schools located just outside of the corporate limits of Scotland Neck. The schools located within Scotland Neck would be predominantly white. Further shifts could reasonably be

anticipated. In a very real sense, the children residing in this relatively small area would continue to attend "Negro schools" and "white schools." The effect of the withdrawal would thus be dramatically different from the effect which could be anticipated in *Emporia*.

Second, Scotland Neck's action cannot be seen as the fulfillment of its destiny as an independent governmental entity. Scotland Neck had been a part of the county-wide school system for many years; special legislation had to be pushed through the North Carolina General Assembly to enable Scotland Neck to operate its own school system. The movement toward the creation of a separate school system in Scotland Neck was prompted solely by the likelihood of desegregation in the county, not by any change in the political status of the municipality. Scotland Neck was and is a part of Halifax County. The city of Emporia, by contrast, is totally independent from Greensville County; Emporia's only ties to the county are contractual. When Emporia became a city, a status derived pursuant to long-standing statutory procedures, it took on the legal responsibility of providing for the education of its children and was no longer entitled to avail itself of the county school facilities.

Third, the District Court found, and it is undisputed, that the Scotland Neck severance was substantially motivated by the desire to create a predominantly white system more acceptable to the white parents of Scotland Neck. In other words, the new system was designed to minimize the number of Negro children attending school with the white children residing in Scotland Neck. No similar finding was made by the District Court in *Emporia*, and the record shows that Emporia's decision was not based on the projected racial composition of the proposed new system.